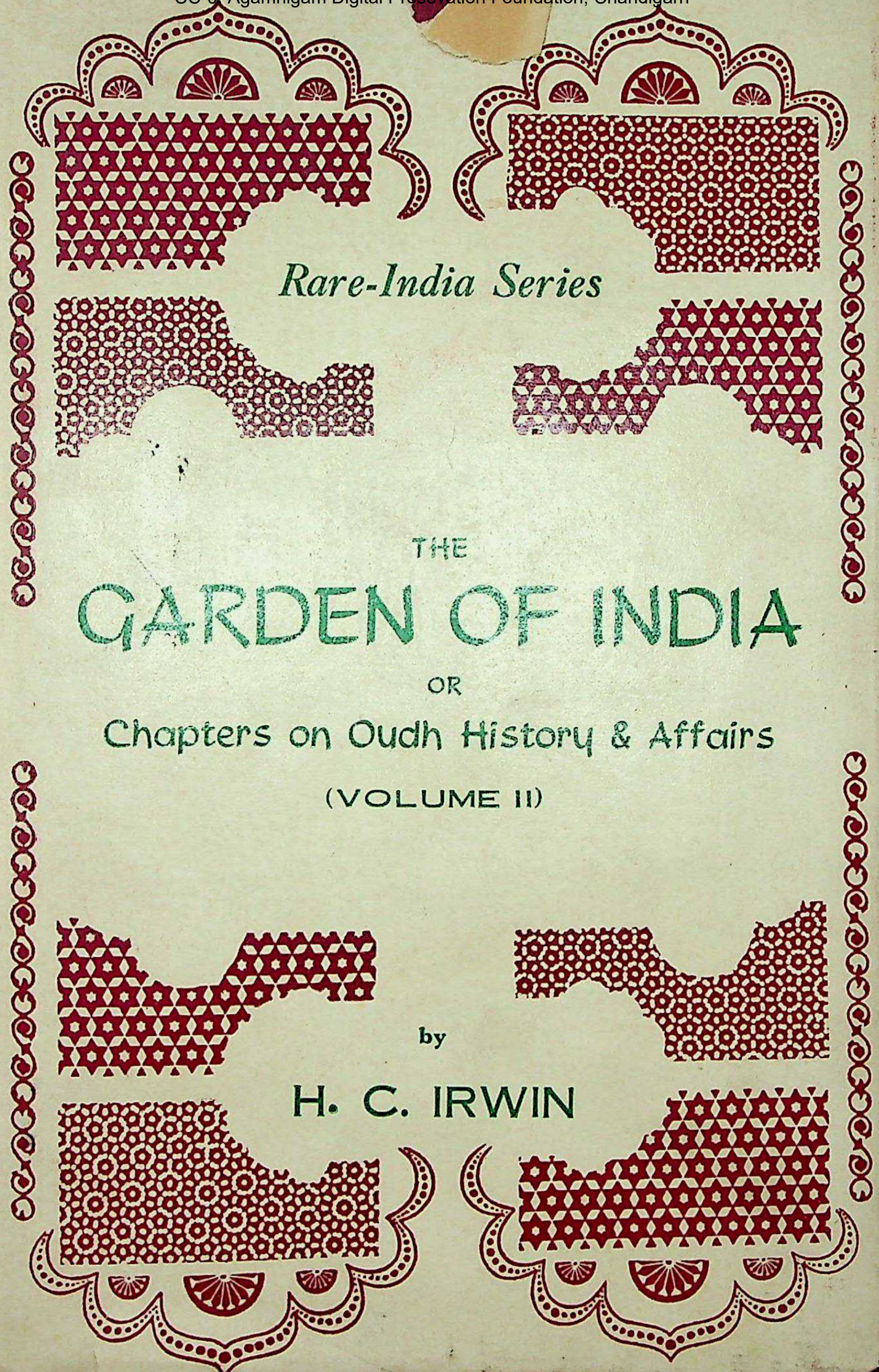

Rare-India Series

THE
GARDEN OF INDIA
OR
Chapters on Oudh History & Affairs
(VOLUME II)

by

H. C. IRWIN

Rs 25/-

RAM ADVANI
BOOKSELLER
LUCKNOW

THE

GARDEN OF INDIA

OR

CHAPTERS ON OUDH HISTORY AND AFFAIRS

Volume II

By

H. C. IRWIN

PUSTAK KENDRA
72, HAZRATGANJ, LUCKNOW

State Museum Library
Lucknow

EDITORS

DR. HIRALAL SINGH
HAMDI BEY

RAM GOPAL
DR. K. C. SRIVASTAVA

4464

ORIGINALLY PUBLISHED IN ENGLAND IN 1880. THIS EDITION IS PUBLISHED BY PUSTAK KENDRA, 72, HAZRATGANJ, LUCKNOW (INDIA) AND PRINTED AT INDUSTRIAL PRINTING WORKS, RANIGANJ, LUCKNOW. © 1973

Price Rs. 25.00; Sh. 35/-

CONTENTS

PAGE

CHAPTER VI—FIFTEEN MONTHS OF ZAMINDARI POLICY [1856-1857] . . . 157

CHAPTER VII—TEN YEARS OF TALUQDARI POLICY [1858-1868] 168

CHAPTER VIII—CONCLUSIONS 262

THE
GARDEN OF INDIA

CHAPTER VI

FIFTEEN MONTHS OF ZAMINDARI POLICY (1856-1857)

"*SEPARE du passe*," says Lamennais, "*le present est muet sur l'avenir*," and it is practically impossible to understand the present, or to devise schemes for modifying the future condition of Oudh, without a general acquaintance with the more salient features and more important issues of the controversies regarding the land questions of the province, which have filled so many Blue Books and excited so much acrimony during the last twenty years or more. In this chapter and the next it will be attempted to give something like a connected view of the course of the discussions which, since annexation, have been carried on concerning the rights in the soil of Taluqdars, zamindars, under-proprietors, and cultivators.

The modern history of Oudh may be said to begin with the deposition of Wajid Ali Shah, and its formation into a Chief Commissionership under Sir James Outram. The first phase of this modern history lasted little more than fifteen months, during which the administration was carried on upon the lines laid down in the Government of India's letter of the 4th of February 1856. This very able State-paper is an excellent embodiment of all that was best in the system of political philosophy preached and practised by Lord Dalhousie, and was the logical outcome of his famous annexation minute of the 18th of June 1855, which has been referred to in the preceding chapter. Probably no bureaucracy, certainly no bureaucracy of foreigners, ever had the good of the people so sincerely at heart as that over which Lord Dalhousie presided. All that was noblest and most vigorous in the spirit of the English Liberalism of the day breathes through the minutes of the Governor-General, and of the ablest Member of his Council, Mr. John Peter Grant. The instructions of the 4th of February might have been written by Bentham himself in his least unimaginative mood, so clearly do they insist on the popular welfare as the one aim to be steadily kept in view, so determined are they that "everybody shall count as one, and nobody as more than one," so confident of the justice and reasonableness of the policy which dictated them.

They directed the Chief Commissioner to proceed to the formation of a summary settlement of the land revenue, to be made "village by village with the parties actually in possession, but without any recognition, either formal or indirect, of their proprietary right." It was declared "as a leading principle, that the desire and intention of the Government is to deal with the actual occupants of the soil, that is, with the village zamindars or with the proprietary coparcenaries which are believed to exist in Oudh, and not suffer the interposition of middlemen, such as Taluqdars, farmers of the revenue, and such like," whose claims, "if they have any tenable claims," might be more conveniently considered at a future period. "The tenures being identical, the existence of coparcenary communities of village proprietors being certain, and the nature of the country, as well as the agricultural usages of the people, being similar, the system of village settlements in the N.W. Provinces," as laid down in the *Directions to Settlement Officers*, "should unquestionably be adopted."

Lord Dalhousie's trumpet, as Sir John Kaye might have said, gave no uncertain sound.

With regard to rent-free grants, it was laid down that, though such grants were to be generally maintained, "the Government revenue should be assessed on each village or tract which constitutes a separate tenure, so that the holder, if his tenure be maintained, may not have it in his power to rack-rent his tenants, or derive more from the land than would be taken by the Government whose place he will occupy." It is to be feared that Lord Dalhousie had not clearly grasped the great doctrine of non-interference between landlord and tenant, which has since been worked out in Oudh with such happy results as are now apparent.

It is customary to represent this first Summary Settlement as having been made with the village proprietors to the exclusion of Taluqdars. How far removed this notion is from the truth, may be gathered from the fact that out of 23,543 villages included in taluqas at the close of native rule, 13,640, paying a revenue of Rs. 35,06,519, where settled with Taluqdars in 1856, while 9,903 villages, paying Rs. 32,08,319, were settled with persons other than Taluqdars. The barons of Oudh thus retained considerably more than half the villages included in their taluqas, which, considering the state of society during the last forty-two years of the Nawabi, from the death of S'adat Ali in 1814, was probably quite as much as they were entitled to. Individuals may have received hard measure, but such cases were exceptional, and were chiefly confined to parts of Faizabad and Sultanpur. The general rule was that where village proprietors were found, the settlement was made with them; where there were none, it was made with the Taluqdar. Much has been made by opponents of the peasant proprietary system out of the case of Maharaja Man Singh, who is said to have been deprived of all his villages but three. But of this, even if he had not been, as he was, a defaulter to the King's collectors at the time of annexation, the history of the Mahdona estate affords ample explanation. It was got together "by fraudulent and extorted *bainamas*," to quote Mr. Gubbins, which "were treated at their proper worth and generally rejected." The writer remembers alluding to these celebrated three villages to which Man Singh's estate was reduced, while in conversation with a Taluqdar's agent, living in quite another part of Oudh, and who could have had no personal prejudice against him, and his comment was that if Man Singh was left with three villages, it was three more than he was entitled to. This was doubtless an exaggeration, but not insignificant as illustrating the tendency of native opinion. There is, moreover, every ground to believe that cases of real injustice, where they occurred, would have been considered and redressed before any regular settlement was concluded. The Government of India, however, after reoccupation,—

"marked this oversight,
And then mistook reverse of wrong for right."

The official view of the policy of the first Summary Settlement may perhaps be taken to be that indicated in the "Introduction to the Oudh Gazetteer." There we read that "our first essay in administration was based on ignorance and ended in disaster. The officers who were entrusted with the all-important work of settling the land revenue had been imbued with the principles of the so-called Thomasonian school"—Mr. Wingfield, for example, the Commissioner of the Bahraich Division—"and shared the prejudices of the only native society with which they had been personally acquainted, that of the Court"—a description which can scarcely have been intended to apply to the Financial Commissioner, Mr. Martin Gubbins. "The first told them that the village communities were the only element in the country which deserved to be maintained; the second, that the Taluqdars were a set of grasping interlopers, in arms against the officials, and tyrants to the people, whose sole object was to defraud Government of its revenue. The result was that *orders were issued to disregard them wherever it was possible, and to take the engagements everywhere from the yeoman classes.* In fact, the policy which Lucknow had for so many years been endeavouring to put in practice, was to be carried out at once by main force. *The instructions were well acted up to. The Chieftains were stripped of nearly all their villages, and a settlement made in which they were entirely left out of consideration.*"

Of the accuracy of the passages italicized, the figures already given, showing that, out of 23,543 villages held by Taluqdars at annexation, no less than 13,640 were settled with them in 1856-57, are sufficient comment. As for the assertion that our officers forcibly carried out the policy which the Lucknow Court would have executed if it had the power, it is enough to remark that the Court had always asserted a claim to the whole rental of the soil, while our officers limited the revenue demand to just one-half of that rental, as nearly as they could ascertain it. The King of Oudh's officials had no abstract passion for village proprietors. and only objected to Taluqdars because they absorbed a larger proportion of the rental than petty zamindars. Our officers, on the other hand, assessed Taluqdars and zamindars alike at half assets. Moreover, the great extension of the Taluqdari system during the forty years preceding annexation had been the direct result of the measures adopetd by the Nazims and Chakladars. This being so, it is surely misleading to say that the Lucknow Darbar would, if it had the power, have made revenue arrangements bearing any real resemblance to those of the first Summary Settlement. It is really surprising that such a statement should have received the *imprimatur* of a Local Government, the head of which was Secretary to the Chief Commissioners of Oudh, under whom that settlement was carried out.

For a statement of the other side of the case, a passage may be quoted from Mr. Gubbin's account of the Mutinies in Oudh, and readers may be left to decide for themselves which has the truer ring, and which indicates the most fitting policy for a Government whose professed *raison d'etre* was the redress of popular suffering and oppression.

"There are those," writes Mr. Gubbins, "who take the part of the Taluqdars, who, misled by appearances, think that they should have been left in undisturbed possession of their blood-stained spoils, and that justice should have been refused to the long expectant villagers. So, however, did not rule the Government of India presided over by Lord Dalhousie. And surely, if no redress was to be granted, and no wrong to be repaired, to what end was our mission in Oudh, and what business had we in the country? So long as the native Government remained, redress was most hopeless. No tenure was a fixity, and a Taluqdar who possessed himself of a county to-day, might be driven from every village tomorrow. Such was not the case, however, under British rule. A title once declared and recognised was as immutable as the Government itself. And the admission of the title of the Taluqdar by a British court would have been the consummation of his fraud, would have stereotyped his usurpation ! As a rule, the right of the villagers to recover their own was admitted."

Of the course run by the Mutiny in Oudh, no account can be attempted here. The story has been told in ample detail by Mr. Gubbins, who of the events he related *pars magna fuit*, and by other writers whose works are easily accessible. The events, moreover, are so well known to all who take any interest in the subject, that a mere sketch in outline could possess neither use nor interest even for the most "general" reader; while anything more than a sketch would be out of the question. Suffice it, therefore, to say that the Mutiny broke out at Lucknow on the 30th of May 1857, and that by the 10th of June all the out-stations were lost to us, and the civil officers and their families were massacred or fugitives. A year later, Sir Robert Montgomery, then Chief Commissioner, found himself with a staff of officers, but no province to govern. He called on Taluqdars to come in, and two-thirds of them obeyed the call by the end of the year. When the cold weather of 1858 began the country was comparatively tranquil, though fighting went on the Tarai for some months longer.

The author of the Introduction to the "Oudh Gazetteer" follows the example of previous apologists of the Taluqdari system in laying stress on the re-assertion of their influence by the barons during the mutiny, from which he concludes that "one thing at least had been made evident, that policy and justice alike forbade their being overlooked in the new settlement which the pacification of the province necessitated." How far it is correct to say that they had been "overlooked" at the first Summary Settlement has been already pointed out.

Lord Canning's view of the case is contained in his letter of the 6th of October 1858, addressed to Sir Robert Montgomery, as Chief Commissioner, which sounded the knell of the zamindari system. Arguing that the conduct of the petty proprietors, both in the N. W. Provinces and in Oudh, almost amounted to "an admission that their own rights, whatever these may be, are subordinate to those of the Taluqdars; that they do not value the recognition of those (their own) rights by the ruling authority; and that the Taluqdari system is the ancient, indigenous, and cherished system of the country"; and that though it might be true, as Sir James Outram had stated, that the zamindars had not influence and weight enough to assist us, yet they had numbers, and, if they valued their restored rights, might have given us active aid, Lord Canning declared that :—

"On these grounds, as well as because the Taluqdars, if they will, can materially assist us in the re-establishment of our authority, and the restoration of tranquillity, the Governor-General has determined that a taluqdari settlement shall be made. His lordship desires that it shall be framed so as to secure the village occupants from extortion," and that the tenures should be declared to be "contingent on a certain specified service to be rendered."

Now, how far, if at all, were Lord Canning's conclusions correct? That they were sincere, no one will for a moment question.

The facts were that during the Mutiny the villagers for the most part remained passive. Some joined the revolted Taluqdars, but the large majority stayed quietly in their villages.* Of all the

---

*In June 1857, Mr. Wingfield wrote that "confidence in our power was fast departing; and *zamindars who had recovered their villages from Taluqdars at settlement were writing to propitiate the latter, or making preparations for flight.*"

European fugitives betrayed and butchered, two only, Mr. Block and Mr. Stroyan, were betrayed by the treachery of a zamindar, Yasin Khan of Sultanpur. For the fate of the rest, Taluqdars were responsible. Many of the refugees received assistance from villagers in making their way to Lucknow, without which they could never have escaped. But quite apart from such instances of good will to ourselves among the peasantry, no proof that they were ill-affected to our rule, careless of their own rights, or well-affected to the rebel barons, can be found in the undoubted fact that they did not lend us active assistance. As Sir Charles Wood pointed out in his despatch of the 24th of April 1860, the mass of the mutineers were kinsmen and co-religionists of the petty zamindars. There were some sixty thousand Brahmans and Rajputs from Oudh in the Company's army, most of whom were in revolt, and it is surely not surprising that the fathers and brothers of these men did not take up arms against them. Their attachment to our rule must indeed have grown with marvellous rapidity, if, after only fifteen months' experience of it, they had cast aside all ties of blood and religion to come to our assistance. The Taluqdars had forts and cannon. It was surely not strange that those of the zamindars whose disaffection towards ourselves, *i. e.* whose sympathy with their own brethren, was sufficiently strong to drive them into action, should have joined the revolted chiefs without whose assistance they could have done little or nothing. The utmost inference that can logically be deduced from their conduct is that their dislike of the great landholders who had oppressed them was not, in some instances, strong enough to prevent their taking part with them, in the cause of their own relatives, fighting what they believed to be the battle of their own religion, against an alien and newly imposed power. This seems a somewhat fragile moral foundation for the weighty edifice of Taluqdari policy which Lord Canning proceeded to construct upon it.

The fact is that the zamindars were in an exceedingly perplexing situation. All around them was raging a war in which their kinsmen were slaying or being slain by a race of foreign conquerors, of alien blood, creed, and colour, whose rule had been imposed upon the province for little more than a year, and whose claim to govern rested on that very superiority of civilisation, and of civilisation of a wholly different type, which rendered their aims and measures generally incomprehensible and mysterious, and sympathy with them well-nigh impossible. All around them, too, were feudal chieftains, who had indeed deprived many of them of great part of the rights in the soil that had once been theirs, but who were still their countrymen, whose motives they could understand, who had often rallied them to resist the aggressions of Nazims and Chakladars, who were fighting the battle of their brethren and their faith, and with whose assistance and leadership alone it was possible for them to take any effective part in the struggle. The antagonism between yeoman and landlord was still there; but in the intoxicating whirl of the moment it was thrown temporarily into the background.

To set against all the ties which bound the zamindars to the barons, the British Government had only two claims to their allegiance, that it could put an end to the disorder and misrule of the Nawabi, and that it had in a great measure restored them to the rights in the soil of which that disorder and misrule had led to their being deprived. These were solid and substantial reasons, no doubt, for throwing in their lot with ourselves, and the latter, at all events, they fully appreciated. But it is just this sort of solid and substantial reason which in time of revolution so often seems to lose its weight, and to be outbalanced by considerations which appeal to imagination and the passions. So it was in the present instance, and the grim old proverb, *Quem Deus vult perdere prius dementat*, received one more grim illustration. The large majority of the zamindars were passive, but a minority, sufficient under the circumstances to pass for the whole, yielded to the solicitations of the rebel Taluqdars, and thus ruined the prospects of the peasant proprietors as a body, bringing all, active and inactive alike, under the same condemnation.

The effect of this identification of themselves, such as it was, by the peasantry with the Taluqdars, was of course enormously to strengthen the hands of the official party who desired to maintain and extend the Taluqdari system, and proportionally to weaken the advocates of a settlement made with the village zamindars. This unnatural alliance rendered the extinction of the Mutiny, by any other means than that of offering their own terms to the Taluqdars, a task of so much difficulty and danger, that it can hardly be a matter of wonder that those terms were offered. It is impossible now not to regret that we did not persevere, and save the people in spite of themselves, even by the slow, costly, and vexatious process of destroying fort after fort until the revolt was stamped out. But though it may be matter of regret, the policy adopted can hardly be matter of wonder. The Summary Settlement of 1856 to 1857 made with the village communities, to the exclusion in many cases, as has been seen, of the usurping landlords, was doubtless one of the main reasons of the discontent of the latter, which, combined with the disaffection of the native army, so largely recruited from Oudh, culminated in the Mutiny. [It should be remembered, however, that in no part of the province had annexation produced less change in the *status quo* than in the trans-Ghaghra districts of Gonda and Bahraich, where very few villages were lost by the barons. Yet in no part of Oudh did the latter join more readily in the revolt]. It was then that so many villagers whom the Summary Settlement had recognised as independent landholders, cut their own throats by joining the Taluqdars by whom their lands had previously been absorbed. thus putting at the service of the upholders of the Taluqdari system an argument which, under the circumstances, was so nearly irresistible that one cannot be surprised at its success.

"The people," it was argued, "evidently regard the Taluqdars as their natural leaders. Why, then, should we go out of our way to force on them a more democratic system for which their own conduct shows them to be unfitted? Let us make terms with the Taluqdars, and the country will be pacified."

Military considerations, also, tended to make those counsels prevail. Besieging numberless petty forts in the hot weather, losing men at every one, is about as inglorious and heart-breaking a task as can well be proposed to a general, and it is not surprising that Lord Clyde hesitated to undertake it. The work, if attempted, would probably have cost many lives, and have prolonged the disturbances in Oudh for another year, and though the teaching of subsequent events may make us bitterly regret the course adopted, we can hardly blame the men of the time for acting as they did.

It was determined, then, to pacify the Taluqdars by allowing them to engage for the payment of the Government revenue of all villages included in their taluqas at the time of annexation in 1856, and on this principle the second Summary Settlement, which followed the Mutiny, was based. Thus, to borrow a phrase from

Mr. Mattew Arnold, the people of Oudh re-entered the prison of feudalism whence for a brief space they had emerged, and the key was turned upon them for a period of which the end is not yet.

Of this policy it is usual to speak of Lord Canning as the author. How far the scheme was his own it is difficult to determine. Sir James Outram, indeed, contemplated the necessity of recognising the Taluqdars more fully than had been done prior to the Mutiny, but for a time only, and under strict limitations on their power over subordinate occupants. In January 1858 he had addressed a memorandum to the Government of India, which deals principally with questions of general administration, but contains the following passages relating to the subject in hand :—

"The system of settlement with the so-called village proprietors will not answer at present, if ever, in Oudh .... I see no prospect of restoring tranquillity, except by having recourse, *for the next few years*, to the old Taluqdari system. There will be no difficulty in settling the rent (revenue) to be paid from each taluqa, and this should be distributed rateably over the several constituent villages, the exact amount to be paid by each villager being settled among themselves. *By this arrangement the Taluqdar will be unable to raise his rent.*"

Sir James was not one of the "picked men of a picked service," and his notions of land revenue policy would very likely be considered somewhat crude by a modern settlement officer; but one may be permitted to think that he had got hold of one or two sound notions on the subject, notwithstanding.

And now the writer ventures to hope that he has made the motives and aims of the three main actors in the drama, the Taluqdars and the yeomen during the Mutiny, and our own administrators before and after it, fairly intelligible to readers who have little or no previous acquaintance with this period of Oudh history. Those who have made of it a special study will, he trusts, find much that is true, if little that is new, in what has been advanced. The yeoman was in a puzzling predicament, and might, if he had ever read *King John*, have exclaimed with Blanche—

> *"Whoever wins, on that side shall I lose,*
> *Assured loss before the match be played."*

His choice was not a wise one for his own material interests, but the mistake has, perhaps, been sufficiently expiated by a penalty which has been already prolonged over more than twenty years. Lord Canning doubtless believed sincerely in the policy which he initiated, and *ex post facto* wisdom is proverbially cheap; but for a right comprehension of the subject it should never be forgotten that that policy was a *pis aller*, and of the Taluqdars it may be fairly said that—

> *"In a rebellion*
> *When what's not meet, but what must be, was law,*
> *Then were they chosen."*

Lord Canning went so far as to assert that the Taluqdari system was the "ancient, indigenous, and cherished system of the country." It would doubtless be an exaggeration to describe it as "the modern, extraneous, and detested system imposed upon the country by the exactions of the British, and by the fiscal necessities and incapacity of the native government," but it would not be hard to demonstrate that such a definition would be at least as little incorrect as that adopted by Lord Canning. Still, though it is easy, after the event, to perceive that "confusion's cure lay not in these confusions," and that the attempt to maintain feudalism, without the sentiment and the customs which can alone make feudalism tolerable, was a deplorable mistake, yet it would be unjust to forget that there was much in the circumstances of the time to make the course determined on seem specious and plausible. Even by readers who sincerely dislike the political morality which pervades the greatest part of Mr. Froude's "English in Ireland," no apology will be felt necessary for the following extract :—

"The forces which govern the evolution of human society are so complex that the wisest statesman may misread them. The highest political sagacity, though controlled by conscience and directed by the purest motives, may yet select a policy which, in the light of after history, shall seem like madness. The 'event' may teach the inadequacy of the intellect to compass the problems which at times present themselves for solution. The 'event' alone will not justify severe historical censure where a ruler has endeavoured seriously to do what, in the light of such knowledge as he possessed, appeared at the moment most equitable." Lord Canning need not be condemned for yielding to "arguments at the moment unanswerable, which later history has too effectually answered."

CHAPTER VII

TEN YEARS OF TALUQDARI POLICY (1858-1868)

THE profound change of tone and altered standpoint which have marked the policy of the Government of India since the Mutiny, could hardly be more strikingly illustrated than by a comparison of the instructions addressed to Sir James Outram on the 4th of February 1856 with those issued to Sir Robert Montgomery on the 6th of October 1858. The judgment which the reader may pass upon their respective merits is likely to depend to some extent on the opinion which he holds as to the true aims and duties of the English in India. The object of Lord Dalhousie's Government was to benefit the masses with a lofty disregard of the impression which by so doing they might produce upon the native aristocracy. And to this end they sought to put themselves into direct contact with the people, "with no miscrowned man's head" between them. They were resolved, in short, that "everybody should count as one, and nobody as more than one."

When we turn to Lord Canning's instructions of the 6th of October, everything is changed. Not the good of the masses, but, as a writer in the "Calcutta Review" of September 1860 approvingly puts it, "to hold the Eastern Empire with the least strain on the population and finances of Great Britain is the problem of Indian Government." Popular welfare has retired into the background, and its place is taken by the "urgent necessity of pacifying the country." The Taluqdars, who for Lord Dalhousie had been mere middlemen, had for Lord Canning become an "ancient, indigenous and cherished" institution of the country, with whom the settlement was to be made wherever they were found to exist. It was even declared that, prior to annexation, "village occupancy, independent and free from subordination to Taluqdars, had been unkuow iu Oudh an assertion so monstrous, and so obviously and notoriously incorrect, that one is at a loss to understand how it can have found its way into an elaborate State paper. Lord

Canning, however, had the excuse that he was writing comparatively in the dark, and after a great crisis.

Whatever may be thought of the process by which he arrived at it, his conclusion was that "these village occupants, as such, deserve little consideration from us." He argued that they had behaved as if regardless of their own rights, and ungrateful to the British Government for maintaining them; and that if they had not considered themselves as wholly subordinate to the Taluqdars, they would certainly have afforded us active assistance in resisting them when they went into rebellion. "On these grounds," of which one was an entire misconception of fact, and the other a false inference, "as well as because the Taluqdars, if they will, can materially aid us in the re-establishment of our authority and the restoration of tranquillity," it was determined that a Taluqdari settlement, "so framed as to secure the village occupants from extortion," should be made. This settlement was begun without any expectation that it would be final, was crowded into six months, and then declared irrevocable as regards the superior proprietary right. There can be no doubt that mistakes were made, and that villages were decreed to Taluqdars of which they had not been in possession at annexation, and even, in some cases, of which they had not been in possession for some years previously. This, however, is somewhat anticipating the course of events, and it must be admitted, in justice to Lord Canning, that if in this respect he went beyond the advice of Sir James Outram's farewell memorandum of the 29th of January 1858, yet in others he did much to mitigate the spirit of blood and iron which pervaded its counsels. Sir James recommended the exclusion of natives from judicial employ; that there should be no appeal in criminal cases ; that the native bar and native *amlah* or office establishment should be abolished, and the place of the latter supplied by "respectable European serjeants"; that any one found in possession of arms after one month from the issue of a proclamation for their surrender should be put to death; and that the lash should as far as possible be resorted to as a means of punishment, the number of lashes, up to two hundred, "to be determined only by the pulse of the offender under the fingers of the civil surgeon." He paid what was perhaps an unintentional compliment to civilians by "earnestly requesting" that the officers appointed to carry out the system which he advocated might be selected "principally from the military services."

Without any desire to cavil at the utterances of one who was undoubtedly a great and good man, one cannot but remark the spirit of severity, almost ferocity, which inspires this memorandum, as an instructive illustration of the extent to which even a great and good man may be overpowered by reactionary impulses. If such was the effect of the Mutiny upon Outram, what was to be expected of lessor men, when armed, as was, *ex officio*, every Commissioner and Deputy Commissioner in Oudh up to the beginning of 1859, with irresponsible power of life and death ? The system of administration imposed upon Oudh after reoccupation was the outcome of a deadly and ferocious struggle between alien races. It is not in a crisis such as that of the Mutiny, or by men "fresh from war's alarms," that schemes of broad, humane, and far-seeing statesmanship are likely to be conceived. The change which since 1857 has come over the attitude of the Government of India towards its subjects has been perhaps more marked in Oudh than in any other province of the Empire. Everywhere is discernible the tendency to treat the native aristocracy as a species of breakwater between ourselves and the masses, and to subordinate to them the interests of the latter. But more especially has this been the case in Oudh. The province was made over to the advocates of feudalism as a subject on which they were at liberty to work their will, and try what experiments they chose.

It must be admitted that the Dalhousie policy had the defects of its qualities, and the policy of Lord Canning the qualities of its defects. The North-West Provinces Collector, brought up in the school of Bird and Thomason, was doubtless prone to treat the native gentleman with scant ceremony, and in this respect it may be gladly conceded that his successor of the present day is more commendable than he. Insufficient regard was, no doubt, often shown both to the feelings and the vested rights of the chieftain, who was apt to be mistaken for the mere revenue contractor, and not unfrequently suffered by the confusion. But all this to the contrary notwithstanding, it must still be maintained that the Dalhousie-Thomason doctrine contained in it the root of the matter; that the welfare and independence of thousands are of more intrinsic importance than the feelings and privileges of individuals. It is to be regretted that natives of rank were not always treated with due deference by the Thomasonian school, and that in some cases their claim to engage for the revenue was not admitted in villages where it was well-founded. But these, after all, are lesser evils than that millions who might have been raised into peasant proprietors should be degraded to tenants at will; than that robbery of the worst type should be sanctioned and upheld by a civilised government ; than that the statute book should be defaced by invidious and arbitrary laws in the interests of an exceedingly limited class. The policy of conciliating the strong by allowing them to lord it over the weak may be safe, but it is not noble. If we are not here to uphold the cause of the poor and of him that hath no helper, we have no right to be here at all. Therefore, while but too gladly admitting that in many respects we have advanced much during the last twenty years, in conciliatoriness, in thoroughness, in mastery of details. in systematic method, in laboriousness, in the desire to do things elaborately: it must still be maintained that in the broad scope and tendency of our policy and aims, we have retrogressed and fallen short of our fathers who were before us; that we have not shown their straightforward, downright courage, their single-minded, fervent resolve to rule for the good of the people, and for the good of individuals only so far as they were a part and portion of the people. The first aim of the State, the great aim of all social and political arrangements whatever, should be to secure as far as possible an equal chance of success, moral and material, to all, and the highest possible average chance of success to each of its subjects; while the policy of the Government of India since 1857, in Oudh, at any rate, has been in favour of territorial aristocracy and landlordism, and, generally, of giving more to him that hath abundance. It is very well, no doubt, to conciliate native gentlemen, and, indeed, natives of every rank and degree, by courteous treatment, and to respect their vested rights of property. But " 'tis not very well, nay." with Roderigo, I "think it is scurvy," to conciliate them by the sacrifice of the security and independence of an entire peasantry, and by the maintenance of "rights" acquired by usurpation, violence, and treachery. *Aristocrat par moeurs, democrat par principes* is a praiseworthy combination of method and object; but if we must choose between them, let us have the democratic principles, even without aristocratic manners, which characterised the policy of Lord Dalhousie, rather than the system of aristocratic manners, divorced from democratic principles, which the Government of India, "wise with the cynical wisdom of the Mutiny," has since his day inaugurated.

In March 1858 the Governor-General issued a proclamation declaring that with the exception of the six specially exempted estates of Balrampur, Padnaha, Katiari, Sisaindi, Gopal Khera, and Marawan, the "proprietary right in the soil of the province is confiscated to the British Government, which will dispose of that right in such manner as to it may seem fitting." The owners of the six exempted estates were declared "sole hereditary proprietors of the lands which they held when Oudh came under British rule." One of these six, however, Padnaha, was afterwards confiscated, owing to subsequent discoveries regarding the conduct during the Mutiny of its owner Kulraj Singh. The estate is now part of the Naipal Tarai. Kulraj Singh is dead, and his sons are in the service of the Naipal Government.

Everyone knows how this proclamation was denounced by Mr. Bright in the House of Commons, in his great speech of the 20th of May 1858. It was supposed at the time that the measure was intended as a preliminary to the introduction of the never-to-be-sufficiently-inveighed-against "dead-level" system, under which, as the eloquent member for Birmingham put it, "the whole produce of the land of Oudh and of the industry of its people will be divided into two most unequal portions; the larger will go to the Government in the shape of tax, and the smaller share, which will be a handful of rice per day, will go to the cultivator of the soil. Now this," continued Mr. Bright, "is the Indain system. It is the grand theory of the civilians, under whose advice, I very much fear, Lord Canning has unfortunately acted . . . I believe that this proclamation sanctions .this policy. . . . It has been stated in the course of the debate that this sentence of confiscation refers only to certain unpleasant persons who are called taluqdars, who are barons, and robber chiefs, and oppressors of the people. This is by no means the first time that, after a great wrong has been committed, the wrong-doer has attempted to injure by calumny those upon whom the wrong has been inflicted."

Mr. Bright, like most other people at that time, was still in ignorance of the use that it was intended to make of this proclamation. Perhaps, when he found out, he was not very much consoled. But it was certainly a curious instance of the irony of circumstance that the Oudh Taluqdars should have found their champion in the most strenuous assailant of feudalism at home.

This confiscating proclamation was speedily followed by another, which called upon all Taluqdars to come into Lucknow, and to receive from the Chief Commissioner grants of the proprietary right in their respective taluqas, as they had existed in 1856. The terms thus offered were so extremely favourable as, probably, in some cases to defeat their own object. Not a few of the rebel chiefs were unable to believe in the promises held out to them, who might have risen to a hook baited with less suspicious liberality. The great majority, however, did come in, and the second summary settlement was promptly commenced. Its effect in modifying the previous allotment was, briefly, as follows :—

In 1856-57, as has already been remarked, out of 23,543 villages included in taluqas at annexation, 13,640 had been settled with Taluqdars, and 9,903 with other persons. In 1858 to 1859, of these same villages, 22,637 were settled either with the same Taluqdars or with loyal grantees, and only 906 with other persons, either as having been redeemed from mortgage, or in consequence of the conduct of the Taluqdar during the Mutiny. A tabular statement furnished in June 1859 by Major L. Barrow, then Special Commissioner of Revenue, shows the total distribution of the soil of Oudh to be as follows :

	Villages		Revenue demand
1. Taluqdari	23,157, paying		Rs. 65,64,959
2. Zamindari	7,201	,,	28,45,183
3. Pattidari	4,539	,,	18,19,214
Total	34,897	,,	1,12,29,356

It should be observed that, for the purposes of this classification, "zamindari" villages are those of which the proprietorship vests undivided in the hands of either a single individual or a coparcenary community; while "pattidari" villages are those in which the lands have been divided among the shareholders. Where all the lands have been thus divided, the village is said to be held in "perfect", where only a portion has been divided, the remainder being occupied jointly, it is said to be held in "imperfect" pattidari tenure. Zamindari villages are constantly becoming pattidari, as, in course of generations the sharers become more numerous. But it rarely happens that a pattidari village becomes zamindari, except by sale, when a single owner, the purchaser, takes the place of the coparcenary body. It should also be noted that the number of separately demarcated villages now borne on the revenue records of the province is only 23,591, as many as 11,306 "nawabi" villages having, for convenience of survey, been doubled up with others.

Out of the total land revenue of Rs. 1,12,29,356, about six lakhs was assessed on revenue free grants not resumable during that settlement, and the actual demand was, in round numbers, 104 lakhs, of which, to quote the Secretary to the Government of India—Mr. Beadon's—epitome of the situation, "77 lakhs have been settled as they were before annexation, and 14½ lakhs with the persons recognised in the settlement of 1856. These latter are chiefly zamindari villages which were in wrongful possession of Kabzdars . . . and which were restored in 1856 to their rightful owners. The remaining 12½ lakhs are from confiscated lands. Under the old settlement, the Taluqdars engaged for only 35 lakhs of the entire revenue; they have now been admitted to engage for 62 lakhs," or, in other words, for more than three-fifths, instead of for about one-third of the whole. This assessment was sanctioned by the Government of India "for three years certain, from the 1st of May 1858, or until a detailed settlement can be carried out in combination with the survey." In Gonda and Bahraich it was prolonged up to 1867, much to the advantage of the zamindars of those (then) very lightly assessed districts. The revenue demand of the last year of Wajid Ali Shah's reign—the *demand*, be it observed, not the actual collections,—had been, in round numbers, 138 lakhs. The amount actually realised by Nazims, Chakladars, and other officials was probably more; that credited to the King was certainly considerably less.

Other sources of revenue tapped by our administration yielded about 15 lakhs, of which 8 were derived from salt, 5 from spirits and drugs, and 2 from stamps. The total product of Oudh taxation in the year 1858, was thus somewhat short of 120 lakhs, or £ 1,200,000 sterling. At present, the land revenue yields somewhat less than a million and a half sterling, an increase of more than 40 per cent; at least £ 200,000 is derived from salt duty; while the income from excise and stamps has risen from 5 and 2 lakhs, respectively, to not less than 7 and 9 lakhs.

The second Summary Settlement was completed before the middle of 1859, and everybody concerned in carrying it out was highly applauded by his official superior, in a graduated scale of laudation. The Assistants were praised by their Deputy Commissioners, the Deputy Commissioners by the Financial Commissioner, the Financial by the Chief Commissioner, and the Chief Commissioner by the Government of India. And so far, at least, as regards the rapidity with which the work was performed, the praise was doubtless well-deserved. "A down-hill reformation," as Dryden has told us, "rolls apace."

For some time everything went on smoothly, without any sign of the acrimonious controversies which were destined soon to break out. The most important external event was the cession to Naipal of a large strip of Tarai, as a reward for the services rendered by the Darbar under the guidance of Sir Jang Bahadur Singh, during the Mutiny. Vast quantities of valuable forest—not to speak of exquisite scenery—were thus transferred from ourselves who were, and are, in urgent need of both, to the Naipalis. who had already an abundance of the latter, and have since been busily engaged in the transmutation of the former into cash. Two good results the cession undeniably secures. As long as the Naipal Darbar holds this strip of Tarai, so long is all likelihood of border raids into our territories by the Gurkhias annihilated; it being obvious to the meanest capacity that this, probably the most paying district in their possession, could be resumed with the utmost ease on any sufficient provocation. And, secondly, the Naipal Government thoroughly identifies itself with the welfare of its tenants, who hold land at very easy terms, with perfect security of tenure, and with no fear of being rack-rented in the interest of some needy landlord or greedy contractor, and in the name, falsely invoked, of political economy. The Naipal Tarai has therefore become, what it would not have been under British rule, a land of refuge for the cultivator whom exaction in our own territory has irritated to the bolting point. The existence of such a haven of security has some effect in keeping landlords from attempting, and tenants from submitting to, extortionate enhancement. But this effect is scarcely appreciable beyond the three northern districts, where it is least needed; the fear of fever, still more than the distance, preventing the cultivators of central and southern Oudh from availing themselves of the abundant waste lands and security from rack-renting which invites them across the Naipal border.

In June 1859 Mr., afterwards Sir Charles, Wingfield, who had succeeded Sir Robert Montgomery as Chief Commissioner in May of the same year, reported to the Government of India that distrust in the permanence of the Taluqdari Settlement was widely diffused throughout all classes in Oudh, the Taluqdars fearing, and the village proprietors hoping, that it was only a temporary arrangement, and that so soon as the province was finally pacified the former policy would be reverted to. Hence "a spirit of antagonism is kept alive. The Taluqdars dread making any concession that may hereafter be construed into a recognition of the independent right of the village proprietors, and the latter will accept no benefit that may look like a renunciation of it." This uneasy feeling Mr. Wingfield wished to see set at rest by the formal accord by the Government of India of its sanction to the finality or perpetuity, as regards proprietary right, of the second Summary Settlement. Such sanction once accorded, he felt "no doubt of the complete success of the Taluqdari Settlement"; and was unable to "see the use of giving the village proprietors hopes of a re-hearing at next settlement; *if, after having then ascertained what everyone knows already, that they are the rightful proprietors of the soil, we are to tell them our policy will not permit us to recognise their claims.*" The most noteworthy points in these extracts are two : first, that the tenacity with which Mr. Wingfield describes the village proprietors as clinging to their hopes of being settled with hereafter, is in strong contradiction to that carelessness of their rights and independence which Lord Canning in his letter of the 6th of October 1858, less than nine months previously, had ascribed to them; and, secondly, that *on Mr. Wingfield's own showing, it was, in June 1859, a matter of general notoriety that the village zamindars, wherever they were to be found, were, as opposed to the Taluqdars, "the rightful proprietors of the soil."*

The first of these points carries its own comment with it, and need not be dilated on here. But the second is probably the most singular revelation to be found in the whole course of the voluminous Oudh land controversy. It is really startling, if the reader will but consider it. Here is a highly placed English officer, who for nearly seven years was Chief Commissioner of Oudh, and who during the whole of that time was the most strenuous upholder of the Taluqdari system, did his utmost to carry it to lengths which the Government of India had never contemplated, and was unwearied in his laudation of that system on the ground that it secured the *maintenance of existing rights,* admitting, actually admitting, within two months of assuming charge of his office, that it was universally known that the village zamindars, and not the Taluqdars, were the rightful proprietors of the soil, and plainly hinting that any enquiry to ascertain the truth of so notorious a fact would be little better than a farce! Such an assertion, coming from such a source, is indeed so surprising, that on first perusal of it one can but "gasp and stare," like Quintilian, and try to imagine that the words might have some other than their obvious meaning, or that Mr. Wingfield's purport might have been incorrectly expressed by his Secretary. But there can be no mistake. The sense of the words is perfectly plain, and in that plain sense they were quoted *verbatim* more than once in the course of subsequent discussion, and were never, so far as appears from the Blue Books, retracted or explained by their author. If an imaginary parallel will help the reader to realise the full significance of such a confession, let him try to fancy Lord Beaconsfield stating in the House of Lords that the Turks had notoriously not a shadow of right to be at Constantinople, or M. Gambetta announcing in the Chamber of Deputies that the Comte de Chambord was, beyond all possibility of doubt, the rightful ruler of France. Such assertions would scarcely be more out of keeping with the professed convictions of Lord Beaconsfield and M. Gambetta, than was the passage above italicised with those of Mr. Wingfield.

The Government of India concurred with the Chief Commissioner in thinking it desirable to remove all doubts as to the fixity of the Taluqdari Settlement, and in a letter (No. 6268) dated the 10th of October, 1859, declared that "every Taluqdar with whom a Summary Settlement has been made since the occupation of the province, has thereby acquired a permanent, hereditary, and transferable right in the taluqa for which he was engaged, including the perpetual privilege of engaging with the Government for the revenue of the taluqa." This right, however, was conceded, according to paragraph 2 of the letter, "*subject to any measure which the Government of India may think proper to take for the purpose of protecting the inferior zamindars and village occupants from extortion, and of upholding their rights in the soil in subordination to the Taluqdars.*"

The Chief Commissioner was directed to prepare a list of Taluqdars who had thus acquired a permanent proprietary right, and to have in readiness *sannads*, running in his own name, to be distributed on the arrival of the Governor-General at Lucknow. In reply to this letter, Mr. Wingfield wrote strongly deprecating the proviso contained in the third paragraph, on the grounds that it would "unsettle the minds of the inferior proprietors, and encourage extravagant hopes of independence. It would alarm the Taluqdars, and make them regard the gift of the proprietary right as a mockery and a delusion. Moreover, it will place an engine in the hands of any future Chief Gommissioner and Governor-General adverse in principle to Taluqdars, which would enable them virtually to annul this settlement, and oust the Taluqdars nearly as effectually as was done in 1856."

If Mr. Wingfield's cynical candour had not already nearly exhausted all capacity for astonishment at his acts and utterances, it would perhaps be surprising to find that susceptibilities so delicate as to be "alarmed" at the reservation to itself by Government of the power—which, it need hardly be remarked, no Government can by any possibility morally consistent with its *raison d'etre* profess to abdicate,—of protecting the cultivating community from extortion, and of upholding their rights in the soil, should have met with such ready sympathy from an English Chief Commissioner of Oudh. For the sake of the Liberal electors who have since those days had the honour of being represented in Parliament by Sir Charles Wingfield, one may hope that the old saw to the effect that those who cross the sea change their climate only, and not their minds, is not of universal application. But what really is surprising is that the Chief Commissioner's fears of the consequences to be apprehended from a declaration that the Government of India would not renounce its first duty towards its subjects, a duty for the non-fulfilment of which it had brought the native administration of Oudh to a violent end, should have been acknowledged to be well founded by a statesman of the calibre of Lord Canning. So it was, however, and this dangerous proviso was omitted from the *sannads* which were distributed by Lord Canning to 177 Taluqdars on the 25th of October 1859. The omission, however, has had no practical effect in limiting the power of the Government to interfere in any way it may think desirable; for the letter of the 10th of October 1859 has been declared to possess the force of law, and was appended as Schedule I to Act I of 1869, which declares and defines the legal status of the

Taluqdars. The proviso of paragraph 3 is, therefore, just as legally binding on the Taluqdars as if it had been actually inserted in their *sannads*, and the controversy on the subject is only noteworthy as an illustration of the spirit by which the then Oudh administration was actuated.

The *sannads*, in the shape to which Mr. Wingfield succeeded in reducing them, conferred on the recipients "full proprietary right, title, and possession" of the estate therein specified, subject to the conditions of paying revenue, and showing all possible assistance to the British Government, and concluded with the following words :—

"Another condition of this *sannad* is, that you will, to the best of your power, try to promote the agricultural resources of your estate, and that whatever holders of subordinate rights may be under you, will be preserved in their former right. As long as you and your heirs will, in good faith, adhere to the conditions above mentioned, so long will the British Government uphold you and your heirs in the proprietary right of the said estate."

Such was the form of *sannad* conferred on such Taluqdars as were restored to the estates which they had held at annexation. For loyal grantees, a much shorter form was adopted, the only conditions of which were that the grantee and his heirs "shall pay to Government the revenue which will, from time to time, be fixed for that estate, and that he and his heirs shall continue at all times firm in their allegiance, and shall do good service to the British Government."

The condition which binds Taluqdars to uphold subordinate rights has not, in some instances, been strictly observed, some Taluqdars having done all in their power to smash under-proprietary tenures. It must be admitted, however, that in such cases they have almost always received considerable provocation from the under-proprietors in the shape of persistent default, and have kept, at any rate, as a rule, on the windy side of the law. Even were it otherwise, the condition is one of the breach of which satisfactory proof, proof such as would justify so stringent a measure as the resumption of an estate, must, in the nature of things, be extremely difficult of attainment. Circumstances, of course, are easily conceivable in which such conclusive proof of flagrant breach of this condition might be forthcoming as would not only justify, but should compel, enforcement of the penalty.

A Taluqdar, for instance, if such a case may be imagined for the the sake of illustration, who should be convicted of resort to systematic bribery and corruption, in order to procure the destruction of falsification of judicial records, decreeing under-proprietary rights in his estate, might be fitly deprived, on the strength of this condition of his *sannad*, of the powers and position which he would, by the supposition, have so grossly abused. But nothing short of adequate proof of conduct of this or of a similar nature would be at all likely to draw down the penalty of resumption, unless, indeed, the duties of property should come to be interpreted with a degree of strictness which, at present, there seems little ground for anticipating.

Of a very different degree of importance is the condition binding the Taluqdars to do all in their power to promote the agricultural resources of their estates. If it should come to be generally recognised as an unquestionable truth that there is one indispensable condition of agricultural prosperity, to confer which, consistently with the maintenance of his own position, is in the power of every Taluqdar in his own estate, and of the government in every village not included in a taluqa, ample warrant would be made out for calling upon the Taluqdars to follow the example of government, and confer the benefit so urgently needed. I believe it will one day be recognised that fixity of cultivating tenure is such an indispensable condition, and that under this provision of the *sannads* its introduction might be enforced in taluqas, quite apart from the effect of paragraph 3, Schedule I of Act I of 1869. This latter, however, has the advantage of applying to Taluqdars of every kind and degree, while, for some not very apparent reason, the obligation to improve the agricultural resources of their estates was not imposed upon loyal grantees.

In April and May 1860 further signs of the coming storm of controversy became visible in a seemingly innocent enough correspondence between Colonel Abbott, Commissioner of the Lucknow Division, and Mr. Charles Currie, afterwards Judicial Commissioner of Oudh, and at that time officiating as Secretary to the Chief Commissioner. In this controversy, two questions were started by Colonel Abbott—(1) the meaning to be attached to the term "Taluqdar"; and (2) the effect on subordinate rights of the confiscating proclamation of March 1858. Mr. Wingfield held that "Taluqdar" meant simply "an opulent landholder," and that confiscation, where carried out, annuled proprietary rights of every kind, inferior as well as superior. A few days later, Colonel Barrow, while officiating as Chief Commissioner, elaborated Mr. Wingfield's doctrine into this, that there were three species of Taluqdari tenure in Oudh, "ancestral, acquired, and conferred"; and further asserted that, with regard to the first two, confiscation had not been practically carried out, and that, therefore, though the tenure was held under a new title, the inferior rights in the land were not affected. But in "conferred" taluqas, Colonel Barrow was of opinion that, confiscation having been carried out, all subordinate rights whatever were abolished, and the estates made over to the grantees free from all encumbrances whatever.

"The sub-proprietors, if there formerly were any, do not possess any definite interest whatever, beyond what they may have derived from the grantee, who will seldom oust under-proprietors whose rights are clear and defined and not unreasonable, but the necessity for declaring this rule was justly felt in many cases where estates had been given in reward, or the parties on whom they have been conferred would have gained nothing. The Officiating Chief Commissioner cannot understand on what principle you would urge the sub-proprietor into an hereditary cultivator The location of a class of cultivators of small holdings and no capital, possessed of a recognised right of occupancy at fixed rates of rent, is in the Officiating Chief Commissioner's opinion a great evil. The grant of an estate hampered with such conditions would not be a boon but a burthen to the recipient, and the Officiating Chief Commissioner cannot it any way recognise such rights."

It thus appears, on Colonel Barrow's own showing, that where an estate had been confiscated for the rebellion of a Taluqdar, and conferred upon a loyal grantee, the "clear, defined, and not unreasonable" rights of under-proprietors, who might have taken no part whatever in the revolt, were to be left entirely at the pleasure of the grantee. And although the legal recognition of such rights would, according to Colonel Barrow, have rendered the grant "not a boon but a burthen to the recipient," who would, in many cases, have "gained nothing" by such a gift, it was yet expected that the grantee, having unrestrained power to do so, would "seldom oust under-proprietors" who possessed them. In other words, it was expected that the grantee would voluntarily submit to a dead loss from his grant, rather than interfere with rights which, though clear, definite, and reasonable, had been authoritatively declared entirely at his discretion to recognise or disallow. Why, the mere fact of a man's claiming a shadow of right in the soil would, in the eyes of four out of five of even hereditary Taluqdars—not to speak of extraneous grantees from the Panjab and elsewhere—be deemed ample ground for ousting him if they could, *i.e.* for getting him ejected, and then, if he proved submissive, allowing him to hold on, at an enhanced rent, as a mere tenant-at-will. There is no need to comment on the parenthetical implication that the existence of a "class of cultivators of small holdings and no capital" is "a great evil," if they are protected from rack-renting by a right of occupancy, and so afforded opportunities, at least, of acquiring capital; whereas, if they are not so protected, and therefore have less opportunity of acquiring capital, their existence is either a minor evil, or no evil at all. On the whole, however, though no one would for a moment dream of hinting that the Officiating Chief Commissioner did not sincerely believe that the policy which he advocated was the right thing for Oudh, yet it will not perhaps be unfair to say that he arrived at his conclusions on ground of what appeared to him to be expediency, rather than by deduction from the legal effects of Lord Canning's proclamation, or from considerations of abstract justice.

Such, at any rate, was the opinion of Lord Canning, who called for the correspondence, and on the 12th of September 1860 wrote to Mr. Wingfield, who had by that time resumed the post of Chief Commissioner, to the effect that Colonel Barrow's declaration of the course to be adopted towards under-proprietors in "conferred" taluqas, was alike opposed to the intentions of the Government of India, and to the Royal Proclamation of the 1st of November 1858. No such distinction between ancestral and acquired taluqas on the one hand, and conferred taluqas on the other, had ever been recognised by the Government, whose policy was—

"To leave the confiscation of 1858 in force only in the case of persons who persisted in rebellion, and generally so far as to restore in its integrity the ancient Taluqdari tenure wherever it had existed at the time of the first occupation of Oudh in 1856, but had been set aside by our revenue officers. But the Governor-

General in Council never intended that in Taluqdari estates confiscated under the general order, and conferred in consequence of the persistent rebellion of the Taluqdar upon a new grantee, all the holders of subordinate rights, though themselves not persisting in rebellion, and though pardoned by the Queen, should be merged in the consequence of the Taluqdar's guilt, and become partakers in his punishment."

It was explained that the confiscation order of March 1859 had been carried out *throughout the province*, except in the six estates specially exempted, and the effect of such confiscation was laid down to be that all estates which came under it are now held by a title derived directly from the British Government, and that the relations between the Taluqdar and his subordinate holders are "those which subsisted between them before annexation, modified or regulated by such obligations as the Government has imposed, not those which were established between them by our officers acting under the instructions issued at annexation." In fine, Colonel Barrow's orders were to be cancelled, and instructions in conformity with the above remarks to be issued.

This correspondence instructively illustrates the difference which so early as 1860 separated the points of view from which the Government of India and the local administrators of Oudh respectively regarded the validity and importance of under-proprietary rights in the soil. Mr. Wingfield, it should be added, cordially coincided in Colonel Barrow's view of the question, and strenuously opposed the recognition of any subordinate rights in taluqas of which the superior right had been confiscated for rebellion, and bestowed upon loyal grantees. His main arguments were—(1) that, otherwise, preposterous claims would be asserted by the under-proprietors, "which, in the absence of the old Taluqdar, no one would care to refute"; and (2) that most of the confiscated estates were either north of the Ghaghra, where subordinate rights were few and weak, or in Baiswara, where the under-proprietors themselves had very generally joined in the rebellion. Mr. Wingfield thus seems to have been of opinion that the possibility of preposterous claims being preferred was sufficient ground for refusing to listen to any claims, whether preposterous or not; that loyal grantees would not care to protect their own interests by refuting preposteous claims, if urged; that where under-proprietary rights were weak and few, they might justly be wholly ignored; and that where under-proprietors had, generally speaking, been guilty of rebellion, no attempt should be made to discriminate between the guilty and the innocent.

In September 1860 Mr. Wingfield submitted to the Government of India a copy of the instructions regarding the record of rights and assessment which he proposed to issue to the officers appointed to carry out the regular settlement of the province. These instructions, which were destined to attain notoriety under the name of the "Record of Rights Circular", were, on the whole, approved by the Government, and such modifications as were ordered are not material to the present purpose. They contain, amid much that is sensible and clear, a proposition which is clear, but scarcely, perhaps, sensible :—

"Only the subordinate rights existing in 1855, or subsequently conceded, are now to be recognised and recorded."

This, of course, amounts to saying that no act of oppression, however gross, committed, say, in 1854, could be redressed by our courts. A zamindar might have been killed, and his family driven out of their village in 1854; but if the Taluqdar had been in full possession throughout 1855, no claim of the murdered ex-proprietor's descendants could be recognised. This cannot be called an extreme, for it is the obvious and immediate result of the rule. And of the meaning of the rule there can be no doubt, for it is added:—"If those person who once held an interest in the land, between the Taluqdar and the ryot, are found to have been reduced, prior to annexation, to the position of mere cultivators, they will not be raised from it now." The subsequent extension of the period of limitation for claims to under-proprietary right to twelve years prior to annexation will be noticed hereafter. The Government of India did not touch on the question at this time, and for the present no more need be said of it.

But the 31st paragraph of the circular is of such vital importance to the condition of something like three-fifths of the population of Oudh, that it must be quoted entire:—

"The Chief Commissioner has determined to make no distinction in records between cultivators at fixed rates and cultivators at will. Abstractedly viewed, he considers that to give a permanent right of occupancy at an unvarying rent to the tiller of the soil, is an invasion of the rights of property, and a clog on enterprise and improvement. It must be shown that nothing less will suffice to guard the ryot from ill-usage to justify such a measure. There is not the slightest possibility of this result happening in Oudh; consequently the measure is utterly unsuited to the province. In three-fourths of Oudh there is a deficiency of cultivators. They are so valuable that no landlord would seek to dispossess a good one, and a bad one he should be free to get rid of. Even in those parts where the population is more abundant, no symptom that the cultivator needs protection has been manifested. The question has not been stirred by the cultivators themselves. To create an element of present discord, to provide against a contingency that cannot possibly occur for the next thirty years throughout three parts of the province, or for seven or eight years to come at least in the remaining fourth, would demonstrate a wanton spirit of meddling. The abandoned and waste lands of Oudh will furnish occupation to any number of cultivators for many years yet, and if increase of population in the already thickly peopled districts of the south-east of Oudh should eventually have the effect of driving cultivators across the Ghaghra, it would be the greatest benefit that could be conferred on the province. It need further be observed that the extension of the system of granting *pattas* down to every one who holds land of another, which the Chief Commissioner contemplates, will afford ample protection to everyone."

The first point to be noticed in this paragraph is that Mr. Wingfield was, at the time of writing it, of opinion that there were two classes of cultivators—tenants at fixed rates, and tenants-at-will. He did not wish the distinction to be recognised in the record of rights in the soil, to frame which is one of the principal duties of a settlement officer, but he believed that it existed, and would have allowed, as he elsewhere explained, each case to be determined on its own merits by the rent courts, as occasion arose. This belief he afterwards disclaimed, and he was probably so far right, that there was no such hard and fast distinction as he had at first acknowledged to exist. There was, in fact, as later inquiries showed, no class of tenants pure and simple possessed of a right recognised by law to hold their lands at unchanging rent rates against the will of the proprietor, just as there was no class of landlords entitled to hold their estates at unchaging revenue rates. Rent rates in practice, probably fluctuated less than revenue rates, but the rent-payer had no more right to hold at a perpetually fixed demand than the revenue-payer. The idea of the one right was as alien to the state of society prevailing in the Nawabi as that of the other, and the only surprising thing about the matter is that the contrary supposition should ever have been entertained. Where all things were in a state or perpetual flux, it was not among the weakest and most down-trodden classes of the agricultural community that a beneficial fixity of tenure could have been expected to exist. Modern advocates of tenant-right in Oudh must abandon all attempts to justify its creation now on the ground that it existed then. It did not, and in the nature of things could not reasonably have been expected to exist. To concede this to the opponents of tenant-right is really to concede nothing.

Next comes to be considered the Chief Commissioner's "abstract view" that the grant of a "permanent right of occupancy at an unvarying rent to the tiller of the soil is an invasion of the rights of property, and a clog on enterprise and improvement." Thinking, as Mr. Wingfield then did, that tenants with a permanent right of occupancy at fixed rents did exist, it seems strange that it should not have occurred to him that to confiscate or ignore such a right, or even to expose it to the risk of being destroyed by the hasty disposal of a summary rent suit, was a decided "invasion of the rights of property." As, however, it is now generally agreed that he was mistaken, as he himself afterwards admitted, with regard to the matter of fact, there is no need to dwell upon the apparent inconsistency. It is enough to assert the general principle that society, acting through the State, has an indefeasible right to regulate the mode in which the rights of property in the soil are to be exercised, and to restrict any particular exercise of such rights which can be clearly shown to be seriously injurious to the community at large. This is a truth fully recognised in Asia, obscured though it has been in Europe, and especially in England, by an exaggerated worship of individualism There is no need to demonstrate that society would be justified in preventing a large landlord from de-populating and laying waste his estate in order to turn it into a hunting-ground; and this once admitted, any minor interference becomes a mere question of degree. The utmost that can be asserted on behalf of the right of the landlord to do what he will with his own, is the right to have his property taken off his hands by the State at a fair valuation, if he prefers that to the alternative of exercising his control over his land subject to such checks as society sees fit to impose. Even so much as this cannot be asserted on behalf of Oudh Taluqdars, whose lands were bestowed on them after confiscation, on the condition of doing their utmost to promote their agricultural resources, and with an express reservation to Government of the power of taking any steps it might deem necessary for the protection of subordinate holders and village occupants. It surely needs no demonstration that the Taluqdars will have no just cause to complain of a breach of faith, if Government sees fit to exercise the power which it has thus expressly reserved to itself.

As to the existence of occupancy rights being "a clog on enterprise and improvement," this is a question of political economy on which there is good ground for believing Mr. Wingfield to have been wholly mistaken. Most modern economists are agreed that *petite culture*, under favourable circumstances and conditions, yields economical and, still more, moral results at least equal to those afforded by large farming. The out-turn per acre of the soil of France and Belgium is probably little, if at all, inferior to that of England, and the condition of the French and Belgian peasant proprietors and small farmers will certainly bear comparison with that of the English farm labourer. This, however, is apart from the real question at issue. The rival systems in Oudh are not *grande* and *petite culture*, for the simple reason that the former cannot be said to exist. Wealthy capitalists cultivating farms of, say, five hundred acres with their own stock are practically unknown. The nearest approach to such farms is the *sir* land of an extensive proprietor, which is not a compact plot, but consists of a number of scattered patches lying in, perhaps, twenty different villages, and certainly no better cultivated than the petty holdings which surround them. The choice for Oudh lies between *petite culture* carried on by tenants-at-will, without security of tenure, and liable to indefinite rack-renting and capricious eviction, which is the state of things at present existing; and *petite culture* carried on by tenants secured in their holdings at fixed rents, and stimulated to exertion and improvement by the certainty that no caprice or greed of an individual can ever deprive them of the fruits of their labour, which is the system here advocated. *Petite culture* by tenants-at-will has never yet succeeded in any country known to history; but when worked by peasant proprietors, or by tenants enjoying fixity of tenure, it has succeeded in, perhaps, every country where it has been tried. It is easy to understand, while differing from, those who prefer a system of large farms worked by a comparatively small number of wealthy capitalists with hired labour, to small farms worked by a large number of cultivators. But it is very hard to comprehend the mental process by which some people arrive at conclusions in favour of small holdings worked by tenants at will, as against the same small farms worked by tenants enjoying perfect security from enhancement and eviction, and only differing from peasant proprietors in their liability to pay rent. It is not too much to say that all *a priori* reasoning, all historical experience, condemn the former and uphold the latter. Large landlords who are also improving landlords are the exception and not the rule, all the world over. and this is as true in Oudh as elsewhere. Four-fifths of the sums expended by an Oudh landlord in "improving" his estate are devoted to alluring cultivators from other villages to settle in his own, or to deterring them from leaving his villages to settle elsewhere. Such real improvements as are made consist chiefly of new wells and water-courses, and far the greater part of these are the work of tenants. On the whole, Mr. Wingfield's dictum would be much nearer the truth if transposed into the assertion that the greatest clog on enterprise and improvement in Oudh is the feeling of insecurity among the actual cultivators of the soil, which is the result of the general absence, especially among the most industrious of those cultivators, of occupancy rights. For it must be remembered that the fortunate few who do at present enjoy security from enhancement, and from fear of eviction so long as they pay a fixed and generally moderate rent, are nearly all Rajputs and Brahmans, the most idle and least improving classes of the agricultural boby; while the unprotected masses include the Kurmis, Muraos, Kachhis, and all the rest of the most industrious and hard-working castes.

Mr. Wingfield's next argument, that tenant-right was unsuited to the province owing to the deficiency of cultivators over three-fourths of its area, is one which cannot now be urged, unless it be admitted that in no country in the world is there a sufficiency of cultivators. For the population of Oudh is four hundred and seventy-six to the square mile, a higher average than is known to prevail in any other part of the globe, and in no country probably is the proportion of urban to rural population so small. The common belief in 1860 was that the people of Oudh numbered only about five millions; while the census of 1869 disclosed the startling fact that there were more than eleven millions of them. Even Mr Wingfield contemplated the necessity of protection for cultivators arising in thirty years in three-quarters of the province, and in seven or eight years in the remaining fourth. He could scarcely have expected that the population would have more than doubled even in thirty years. Nearly twenty years have passed since he wrote, so that we are already considerably past the point as regards time in one-fourth of the province, and as regards population, which is of course the essential matter, over the whole of it, at which he contemplated the possibility of its being needful to introduce tenant right. It is now generally known that cultivators from southern Oudh will not migrate to the waste lands of the Tarai, for the simple reason that if they do they die of fever during the rains. Cultivators acclimatised to the *hawa pani* (air and water) of the trans-Ghaghra districts do not suffer so much, but an emigrant from Faizabad or Baiswara would almost certainly be struck down. Therefore it is not to be expected that the pressure of population in the south and east of Oudh will lead to the waste soil of the Tarai being brought under the plough. Nor is such a result to be desired. It is only in the Tarai that good and extensive grazing grounds for cattle are still to be found, and it is to be hoped that it will be very long before its beautiful green pastures are converted—or perverted—to cultivation.

As for Mr. Wingfield's contention that no landlord would seek to dispossess a good cultivator, and should be free to get rid of a bad one, it is probable that his definition of a "good" or "bad" cultivator would not altogether coincide with that which would recommend itself to an Indian landlord. A "good" tenant in the estimation of the latter is one who is content to live on one meal a day and, in native phrase, to sell his wife and children, rather than fail to pay the highest possible rent for his holding; who submits unquestioningly to any cesses it may please his landlord to demand; and who is always willing to work for him without payment, to give evidence for him in court, and, speaking generally, to do any conceivable thing he is told. Such is undeniably the ideal of a "good" tenant cherished by five Indian landlords out of six, as it is, *mutatis mutandis*, by a large majority of landlords all the world over. Such a tenant as this, it may be admitted that no landlord would seek to dispossess; but the converse proposition can scarcely be conceded, that any landlord should be at liberty to get rid of any tenant who may fall short of this lofty ideal. It would be hard to imagine any more effective device for wholly extinguishing anything like manliness and independence in a national character already sadly deficient in those qualities, than to render all assertion of them only possible at the risk of house and field.

It only remains to be observed that "the extension of the system of granting *pattas* down to every one who holds lands of another," which Mr. Wingfield contemptated as likely to "afford ample protection to everyone," would not have afforded any protection at all beyond the terms for which the leases were granted, which is the essential point; even if it had, which it has not, ever got beyond the sphere of the then Chief Commissioner's contemplation.

Mr. Wingfield's instructions that no distinction was to be made in the "record of rights" between cultivators at fixed rates and cultivators at will, were "generally approved of" by the Governor-General. The question, however, was not allowed to rest. Sir George (then Mr.) Campbell, being at the time Judicial Commissioner of Oudh, pointed out in his report on the administration of justice for 1861, that the grant of judicial powers to Taluqdars was often equivalent to making them judges in their own causes, which, where subordinate rights came before them judicially, was not likely to conduce to equitable decisions. As an instance of the mode in which these powers were employed he cited Maharaja Man Singh's proceedings. This Honorary Assistant Commissioner had "from the first declined civil cases as an unprofitable labour." Of nineteen persons convicted by him during one month, eleven were punished for opposition to his own revenue processes, and four, as Mr. Campbell thought, were "illegally so punished for resisting the Maharaja's own servants engaged on executive duties."

Mr. Campbell did not maintain that there existed in Oudh any class of tenants with a permanent right of occupancy at a fixed rent. Neither rents nor revenue were ever so fixed in any part of India, though the former were so far more fixed than the latter, that what was by ancient law and practice claimable from the cultivator was a fixed proportion of the produce. This principle still exists in its integrity wherever grain rents prevail; but is obscured, if not wholly lost sight of, where these have been commuted to cash. But there were, he contended, tenants who differed from tenants-at-will by holding at *regulated* rates, and he maintained that—

"The holding of the superior zamindars from (the native) Govenment was of the same nature, but less distinctly regulated. The British Government regulates its demands by fixed rates short of the utmost limit. It is then for the Government to determine by its own laws whether the margin created by this limit is to be given exclusively to the superior holder, or is to be in any degree shared by the inferior holders; and, at any rate, it does seem that to permit, under our strong rule (which destroys the right of resistance), such unlimited enhancement at the discretion of the zamindars as to render the ancient tenants, in practice, mere tenants-at-will, would put them in a decidedly worse position than they previously occupied. . . . It is clear that as the country advances great rent questions must arise between the superior and inferior holders; and I cannot but think that there is some ground for apprehending that if, while the rights of the latter are not recorded, the former are allowed for a series of years to decide cases which affect their own interests, the inferior rights may be obliterated more quickly than under ordinary circumstances they would have been."

One may be permitted to think that Sir George was wrong in admitting that a right of occupancy should be maintained only as the privilege of a favoured few, instead of as an indefeasible right of every cultivator whomsoever, and yet feel refreshed at finding that there was in Oudh one highly placed officer who had not wholly bowed the knee to the Baal of landlordism, and the sacred right of every man to what he would with his own, including a good deal which belonged to other people. Naturally, however, this was not how it struck Mr. Wingfield, who, on the 15th of December 1862, addressed to the Government of India an eager protest against Mr. Campbell's "unwarranted and misleading inferences on a subject not coming within his department " Mr. Wingfield's protest amounts to this, that there were cultivators with a right of occupancy, but that the right could not be made to depend on occupation for any arbitrarily assumed period, and merely "entitled the tenant to hold at market rates and be protected from wanton eviction"; and that this right, such as it was, should not be recognised at settlement, but that the rent courts should deal with each case as it arose. He was also of opinion that many evils had arisen in the N. W. Provinces from interference between landlord and tenant, of which the only one he specified was that the value of property had been impaired. Why, he asked, should rents be fixed which must tend to rise with the extension of public works, and the consequent diffusion of wealth ? Under native rule, he was of opinion, "there was no limitation on the power of the landlord to raise the rent," except his own interest.

To these arguments it is perhaps a sufficient answer to observe : (1) that it is probably a less evil that land should sell for a year or two's less purchase than that the people who cultivate it should be liable to rack-renting enforced by eviction, and all the misery which that implies ; (2) that if rents rise in proportion to the increase of wealth, such increase will be *concentrated,* not *diffused;* and (3) that, though it is perfectly true that under native rule there was no limit on the power of the landlord to raise the rent of a tenant, except the violent resistance of the latter, or his own pleasure or interest, yet this is a poor argument for the course which Mr. Wingfield advocated of taking away the tenant's power of violent resistance, while leaving the landlord's power unrestrained, or rather increased by legal appliances and all the processes and paraphernalia of the rent courts. Moreover, it is probable that the average market value of land is considerably higher both in the Panjab and N.W. Provinces, where tenant right to a greater or less extent prevails, than it is in Oudh.

Mr. Wingfield's orders to settlement officers to ignore the distinction between tenants with a right of occupancy, as he himself defined it, and tenants-at-will, though sanctioned, as has been seen, by Lord Canning, were called in question by Lord Elgin, who on the 18th of May 1863 directed the Chief Commissioner to report "whether the omission of all reference to their rights (those of occupancy tenants) in the settlement records, coupled with the judicial powers conferred on Taluqdars, will not have a tendency to obliterate them altogether, and thus to prejudice unjustly the status of the holders." This inquiry, however, so far as appears from the Blue Books, was never answered ; and so the matter remained for a time, occupancy tenants being admitted to exist, with a right to hold at fair rates, which rates were to be determined by the rent courts in each case of summary suit for rent or ejectment as it came before them, but not to be recognised by settlement officers. Mr. Wingfield's views on the subject of tenant right, however, had not yet attained their full development, as will shortly be perceived.

Meanwhile let us turn to the district of Pratabgarh, which was being settled by Mr. Moss King, C.S., who put on record some remarks worth noting.

"The Taluqdars," he writes, "intend to fight every point, and yield nothing. They have been so successful hitherto under the strict view taken of under-proprietary claims, that their ambition now soars to the annihilation of all subordinate rights. . . . I often regret to see that claims are rejected which are brought forward by men whom common report and estimation point out as possessed of rights. No doubt in a strictly legal sense they have failed to prove their points, but the Taluqdar proves nothing either. It is the *onus probandi* on the claimant which puts him at such a disadvantage. The Taluqdar is in the saddle, and the under-proprietor has to unhorse him. This he can seldom do, and he loses all in the encounter. A few of them (the Taluqdars) are evil disposed, some are simply apathetic and incapable, others are grasping and lavish alternately. All are more or less in the hands of agents, whose reputation is usually bad. The fact is, *they have more land than they can manage*, (the italics are Mr. King's), and they do and will manage it ill. Made masters now of villages which have often defied them, and do not acknowledge them as their true head, they will have a very difficult task to perform, and I fear will confine their exertions towards these villages to such hostility as our rule permits, rather than manage them with a liberal hand. There is no disguising the fact that a Taluqdari settlement, such as it will be made in Oudh, will be the commencement of a new era in landed property. The effect cannot be limited to the bare right to engage for the payment of the revenue, but the Taluqdar is made actual owner of much that was debateable before. And the spirit of our instructions for settlement may be briefly described as giving the Taluqdar the benefit of all doubts which may arise in the thousand questions concerning the particular parties in whom particular rights rest. Now I suppose there is no country in the world where so much margin for doubts to work will be found as in India; and if the Taluqdar is to have the benefit of them, he will be an immense gainer. I do not think that the inner history of village tenures will be found out in this Taluqdari settlement; it is not the interest of either party to disclose the real facts of their cases, as we find that they did in the village settlements of the North-Western Provinces. I would have the settlement officer get as near as he can to the true facts of the position of the parties; and if he cannot find any precise amount of land to which good title can be shown, but still that a title to something is made out, I would have him weigh the position mentally, and match it with under-proprietary right in so much land."

In reply to this latter proposal, the Chief Commissioner could not "consent to give authority to a settlement officer to provide an equivalent in land for rights that he cannot define"; and to the Government of India, whose attention had been attracted by Mr. King's remarks, he represented that that officer's description should not be taken as applicable to Taluqdars in general, that the importance of "tact" had been impressed upon him, and that he, Mr. Wingfield, felt "confident that the reports from other districts for the present official year will make the Taluqdars appear in a much more favourable light."

In such wise laboured Mr. Wingfleld, perfecting his theory, not, like the National Deputies, according to Carlyle, of "irregular verbs," but of a somewhat unregulated landlordism.

With Sir John Lawrence's accession to the Viceroyalty began a new phase in the history of the Oudh land question. Hitherto Mr. Wingfield had carried out his principles with but little interference. He was now to encounter opposition of a more serious character.

The first note of the coming conflict was sounded in a letter of the 17th of February 1864 to the Chief Commissioner from Colonel H. M. Durand, afterwards Sir Henry Durand, who was then Secretary to the Government of India. "A careful perusal," the letter begins, "of the official correspondence having reference to the settlement operations in Oudh has not satisfied his Excellency that the scope of the instructions of the Secretary of State for India has been clearly comprehended, or suitable measures adopted for carrying fully into effect the orders of the Government of India." After quoting at length despatches from the Secretary of State of the 24th of April 1860, and of the 17th of August, 1861, the letter continues:—"By the foregoing instructions, it was decided that, while the arrangements made in favour of the Taluqdars by the British Government should be respected, the subordinate rights of other classes of people in the soil should be ascertained and defined. It is the opinion of the Governor-General in Council that these instructions embraced all rights whatever under those of the Taluqdar, whether those of former proprietors, or hereditary tenants holding their lands on fixed rents; or on rents more advantageous in their character than those of mere tenants-at-will; or whether they are tenants with the simple right of occupancy." In other words, the Government made, as it had an unquestioned right to do, a sacrifice of a certain portion of its own rights in favour of the Taluqdars, but it had no right to sacrifice the welfare, or to bind itself not to remedy the sufferings, of other classes. Such an agreement, had it been entered into, which it need hardly be said was not the case, would have been no more binding than an agreement in restraint of legal proceedings. The instructions of the Chief Commissioner that no under-proprietary rights not enjoyed in 1855 were to be admitted, and of the Settlement Commissioner, Mr. Currie, that no hereditary tenant right was to be recognised. were described as "at variance with those of the Secretary of State, and contrary to sound policy." The Chief Commissioner was requested to report with all speed whether any measures had been taken for the recording of occupancy rights, and whether settlement officers had, as a fact, been directed not to make any inquiry with a view to such record. A complete series of the settlement circulars issued by the Oudh administration, and also the settlement reports of Messrs. King and Clifford (Pratabgarh and Unao) and of Captain McAndrew (Rai Bareli) were called for.

The Oudh policy was thus put upon its defence. On the first point—the practice enjoined of ignoring all under-proprietary rights except those actually exercised in 1855—the Chief Commissioner, in his letter of the 2nd of March 1864, justified his instructions by a reference to paragraph 5 of the Government of India's letter of the 19th of October 1859, which runs as follows:—

"This being the position in which the Taluqdars will be placed, they cannot with any show of reason complain if the Government takes effectual steps to re-establish and maintain, in subordination to them, the former rights, *as these existed in 1855*, of other persons whose connection with the soil is in many cases more intimate and more ancient than theirs."

Mr. Wingfield pleaded that this rule had been sanctioned by the Government of India when embodied in his Record of Rights circular issued on the 29th of January 1861, which had been submitted for its approval, and had acquired the force of law under the Indian Council Act; and that "the basis on which the rule rests is that on the reoccupation of the province we adopted as the principle of our summary settlement the *status quo* at annexation."

It may be remarked that these pleas seem to overlook the fact that a right may *exist* without being actually exercised. A man forcibly dispossessed of his land, without any other title than that of the strong hand on the part of his dispossessor, has surely a *right* to recover possession of his property; and to rule, as Mr. Wingfield had ruled, that if he were not in actual occupation in 1855, though he might have been expelled in December 1854, his claims could not be recognised, is clearly not to "maintain his *rights as they existed* in 1855." For in 1855 he had a *right* to recover possession, which Mr. Wingfield's ruling wholly ignored and annihilated. This is surely to maintain the *status quo* with a difference. Under the native Government there was practically no law of limitation, and to introduce a law of limitation so stringent as to bar all rights not exercised within 13 months and 13 days prior to annexation, must be admitted to be a sufficiently violent alteration of the *status quo* of 1855.

With regard to the non-record of occupancy rights, Mr. Wingfield opined that, though the terms of the Secretary of State's despatch, No. 33 of the 24th April 1860, were "sufficiently comprehensive to embrace every form of interest in land," yet, under the circumstances, "it could hardly be doubted that mere ryots were not then under consideration."

[The exact words of the despatch referred to were as follows:—

"You were quite right in rejecting at once the proposition of the Chief Commissioner, that all under tenures should be abandoned to the mercy of the Taluqdars, and I observe from your Lordship's more recent proceedings that the engagements into which you have entered with the Taluqdars provide for the protection of the under-proprietors, and that where a regular settlement is made, in all cases where there is an intermediate interest in the soil between the Taluqdar and the Ryot, the amount or proportion payable by the intermediate or subordinate holder to the Taluqdar will be fixed and recorded after careful and detailed survey."]

The Chief Commissioner's letter concluded by promising a further report on tenant-right, and by a deprecation of the opinions unfavourable to Taluqdars expressed in Mr. King's report on settlement operations in Pratabgarh in 1862-63, which had been called for by the Government of India.

The further report thus promised was submitted on the 26th March 1864. And, now, for the first time, the Chief Commissioner announced his conviction that his previous admission of a "modified" right of occupancy was a mistake, and that such a right on the part of "non-proprietary cultivators had never in theory or practice existed in Oudh."

Not being careful to dispute the correctness of Mr. Wingfield's conclusion as to the matter of fact, one need not cavil at the suddenness of his conversion to the doctrine here propounded. Rights of occupancy among tenants pure and simple, *i. e.* rights capable of being legally enforced, or which were recognised by universal custom, may have existed in times beyond the reach of our investigations; but if so, they had certainly been effectually stamped out by years of lawlessness. It is probable that the genuine Hindu theory of tenure contemplates only the Raja on the one hand, and a body of hereditary cultivators on the other, removable, indeed, by him, but only in his capacity as head of the State, not as landlord, and paying him a fixed share of the produce as revenue, not as rent. Such, there is reason to believe, was the Hindu ideal, the first great departure from which, the first grand heresy, was the absorption by individuals, in the shape of rent, of a part of the dues of the State; and the second, the pretension to collect rent at rates in excess of the revenue rates. To say that this ideal rarely, if ever, practically existed, is only to say that it resembled the large majority of other ideals, in seldom or never being realised. The power of evicting a tenant, like the power of killing him, was one of which the exercise lay in the discretion of the King, and against the mode in which he chose to exert one power or the other there was no appeal. When the Hindu kingdoms were broken up into petty chiefships, a process which seems to have occurred every two hundred and fifty years or so, the powers of the king assumed by petty Rajas, and even by small zamindars. It would, of course, be an axaggeration to say that, even in the later days of the Nawabi, a Taluqar had as much theoretic right to kill a cultivator as to eject him; but it is certain that there was about as much, or as little, likelihood of his being brought to account for the one act as for the other. A low-caste, uninfluential cultivator had *no* rights which he could enforce against the owner of the soil he tilled. He was entitled by the custom of all tolerably good landlords to retain his holding as long as he would agree to pay something not much less than the highest rent for it that anyone would *bona fide* offer. But even this right he could not enforce; and no one with any adequate conception of the state of society than prevailing in Oudh would ever have thought it likely that he should be able to enforce it. As already remarked, it is not among the weakest and most down-trodden class of an anarchical society that a beneficial fixity of tenure is likely to be found. As to the matter of fact, then, one may quite agree with Mr. Wingfield, while differing from him in maintaining that the previous absence of tenant right was no reason against conferring it then, and is not a reason now.

Mr. Tucker, Commissioner of Baiswara, had pleaded the cause of the high-caste peasantry of his division, the Brahmans and and Rajputs who had held their fields for generations at low rents, who were forbidden by caste prejudices from driving the plough, and who had suffered much from loss of military service. But the Chief Commissioner could not for a moment sanction the proposal to limit the demand of the Taluqdar on such persons, and thought "that we should rather look forward with satisfaction to the arrival of the time when caste will confer no advantages." A most unimpeachable aspiration, no doubt, but a somewhat fragile basis of expectation for a thirty years' settlement. Mr. Wingfield could not admit that "caste prejudices give a claim to privileges which must be denied to the humbler and more industrious races." Quite so; security from rack-renting and capricious eviction should not be a *privilege* of any caste, but should be regarded as what it is, an essential condition of healthy agriculture, and conferred upon every cultivator whomsoever. Any rights arising from high-caste, relationship to the landlord, or length of occupancy, should find expression in a lower rent-rate.

Even improvements of the soil effected by the tenant could not, according to Mr. Wingfield, confer any right of permanent occupancy, "except on conditions agreed to by the landlord"; for "to hold otherwise might have the effect of compelling landlords to interdict all improvements". Unless the object in view was effectually to prevent all improvement of the soil, this really seems a sufficient *reductio ad absurdum* of the tenancy-at-will system.* The argument might have some force in a country like England, where landlordism has established itself with a rigidity and a weight of ancient custom which few seem prepared to dispute. But in Oudh, though of course it was the one of the Taluqdars and their advocates to maintain the sacred duty of upholding the "ancient, indigenous, and cherished system" in its integrity, and to insist that to alter one jot or one tittle thereof—except, indeed, in favour of the Taluqdars—would have been to shake society to its depths, yet there can be no real doubt that the "system" was in a very fluid condition indeed for several years after reoccupation, and quite capable of being considerably modified in favour of the cultivator without the slightest shock to the sense of justice of any landlord. Mr. Wingfield, no doubt, had done all that one man could do to impress them with a sense of their own importance, and of the inviolability of their right to rack-rent and evict at pleasure, and by 1864 these great moral lessons had to a considerable extent been brought home to them. But these warnings of the importance of conciliating the prejudices of landlordism would perhaps have been more impressive if urged by an authority who had done somewhat less to foster those prejudices into a condition of morbid rampancy than Mr. Wingfield.

The Chief Commissioner's next argument was that as no right of occupancy on the part of non-proprietary cultivators could be proved, to confer such right would be to rob those landlords whose *sannads* only provide for the maintenance of rights previously enjoyed. That the conditions on which the *sannads* were conferred were exceedingly meagre and unsatisfactory, is indeed, true and for this Mr. Wingfield himself was, as we have seen, responsible. But these oft-quoted *sannads* cannot abrogate the right, or rather the duty, of the State to impose such conditions on the enjoyment of property in the land which it allows individuals to hold, as it may from time to time deem necessary for the common welfare. Quite apart, moreover, from general considerations of this kind is the particular fact that power to take such steps as it might consider needful for protection of village occupants was expressly reserved to itself by Government at the time it conferred the *sannads*. If it be maintained, as it has been maintained, that the term "village occupants" was not intended to include all who occupy, *i.e.* live in, a village, this can only have been the case because Lord Canning, when he used the phrase, believed, as a matter of course, that occupancy rights existed and would be carefully protected, as had been done, though on an insufficient scale, in the N.W. Provinces.

---

*It is notorious that, in some parts of Oudh, landlords have been known to bring suits to prevent tenants from building wells, for fear they should thus acquire a temporary right of occupancy and become too independent.

That rights of occupancy had been recorded at the settlement of the N. W. Provinces in 1833, was due, Mr. Wingfield thought, to a reaction against the principles of the premanent settlement in Bengal, "by which it was supposed"—a mere supposition of course—"that the interests of the peasantry had been unduly neglected"; while in the Panjab, "the right of hereditary occupancy was entirely created by our Government on arbitrary and varying rules," but—though this he forgot to add—with most admirable results. But, even on the suppositioa that rights of occupancy did exist, Mr. Wingfield could not see that they would be of any use to the holders, as they only meant, under the High Court ruling in the Hill's case, the right to hold at the market rent, "and no landlord wants to get rid of a tenant who will pay the market rate for the land." He must surely have been aware that it is only a very exceptional landlord who does not do all he can to get rid of a tenant who has had the temerity to complain of ill-treatment on his part, or given evidence against him, or refused to give evidence for him, or thwarted him in any way whatsoever.

After repeating his favourite comparison between the right of the landlord to get the utmost he can for his land, with the right of the shopkeeper to sell his goods at the highest obtainable price, Mr. Wingfield proceeded to denounce the claim of "the lowest form of agricultural interest" to protection as "opposed to modern principles." "Every attempt to legalise it under the guise of tenant right in Ireland has been defeated in Parliament, and the idea of limiting the power of the landlord as to the rent he may put on his land, or the choice of a tenant, has been denounced as communistic by an eminent living statesman." The argument from Irish precedents has been sufficiently refuted by recent history. The "communistic idea" has been at last introduced into Ireland with excellent results, the chief complaint now heard being that it has not been carried far enough. "The supposition that raising the rent lessens the peasant's means of subsistence," Mr. Wingfield considered "erroneous; any measure that would keep down rents is injurious to the interests of all classes, and of none more than the cultivators themselves, to whom the stimulus to exertion and improvement would be wanting". This amounts to saying that, if the yearly produce of a farm be 200 maunds, and the rent 75 maunds, the peasant's means of subsistence will not be diminished from 125 to 100 maunds, if 100 instead of 75 maunds be taken as rent. As for stimulus, what stimulus can a cultivator have to increase his out-turn if in constant danger of having the increment—not, be it observed, an "unearned increment"—taken from him in the form of enhanced rent. Mr. Wingfield's faith in the efficacy of rack-renting to foster industry and improvement is really a curious psychological phenomenon. His liberalism and devotion to "modern ideas" remind one of Lord St. Aldegonde. He seems to be always murmuring to himself as he writes, "As if a fellow could have too much land, you know!"

The conclusion at which he arrived was that the rent courts should take no cognizance of any suit by a tenant against a landlord which was not based upon a breach of contract by the latter, and that the Oudh peasantry should be taught to "seek the wide field of industry open to them." Where that field was, however, he omitted to specify. Probably he was thinking of the fever-stricken jungles of the Tarai.

This reply of the Chief Commissioner, with a memorandum by Mr. C. Currie, Settlement Commissioner, and letters from fifteen district and settlement officers, were submitted to the Government of India on the 26th of March 1864. These papers contain the Oudh Administration's defence of its policy. The views of Mr. Wingfield himself, as developed up to date, have been already analysed. The gist of the opinions given by other officers may be briefly stated, dividing them into *cons* and *pros*.

The *cons* amounted to this: that there was no class of non-proprietary cultivators possessed of a right which they could enforce against their landlord to resist eviction; that the *Ashraf* or high-caste tenantry—(with whom, under the name of "Shatrafs," an ingenious combination, apparently, of *Chhatri* and *Ashraf*, Mr. Caird has made the readers of the "Nineteenth Century" familiar)—rendered suit and service to their lord, in return for which they held lands at low or nominal rents; that, when not cultivating with their own hands, these were "idle middlemen," and not fit objects of compassion; that the right of occupancy at the market or rack-rent was a mere shadow, not a substance, and that a right of occupancy at any more favourable rate could not be recognised without injustice to the landlord.

The *pros* may be summed up thus: that the custom of the country was opposed to the ejectment of hereditary cultivators except for non-payment of a fair rent; that the idea of tenant-right, *as a legal and indefeasible claim,* was totally new to the province; that cultivators, however, who had constructed wells, tanks, embankments, &c., were allowed to hold on favourable terms *as long as the improvement lasted;* that though the same families had held the same land for generations, it "had never occurred either to the proprietor or to the tenant to speculate on the exact nature of the right enjoyed by the latter"; that complaints had been made by cultivators of ejectment from fields which they had occupied for centuries; that the general *consensus* of opinion that a *pahikasht* (or non-resident) cultivator had no right to retain his lands, pointed to a distinction between his *status* and that of the resident (or *chapparband*) cultivator, implying a *quasi* right of occupancy on the part of the latter; that, though public opinion was against the ejectment of old cultivators, it would not, in the absence of a positive enactment, suffice to restrain large landholders from increasing their incomes by this means; and that if eviction of high-caste cultivators or enhancement of their rent were allowed, crime would seriously increase, and a general sense of injustice prevail.

One officer alone, Dr. Wilton Oldham, a North-West Provinces civilian, who was then officiating as Deputy Commissioner at Sultanpur, broadly affirmed that rights of occupancy existed which should be recognised and recorded. His letter to that effect, dated the 18th of September 1863, seems to have been sent up to the Supreme Government, but Mr. Wingfieid, in his summary of the opinions of officers, appears to have overlooked it. The following extract from it is sufficiently to the purpose to be quoted here:—

"It appears to me that a right of occupancy, where it exists, is a lower kind of property, and that the dictum of Savigny, that all proprietary right is based on 'adverse possession ripened by prescription,' applies most completely to this lower form of property. When, therefore, a cultivator has cultivated fields at rents lower than was usual in the neighbourhood for land of the same kind, as it was obviously the interest of the zamindar to oust him unless the contrary be proved, his possession may be presumed to have been 'adverse possession' . . . . . when this possession has continued for a long time, it may justly be considered to have become ripened by prescription, and a right of occupancy has arisen . . . . . If it be said that custom and respect for public opinion deterred zamindars from raising the rent of certain cultivators to a rack-rent, or ejecting them, then this is a proof that the right had not merely begun to form, but was actually in existence and recognised."

Readers must judge of these arguments for themselves. But it may be here observed : (1) That when, under our stable rule, the high-caste tenant ceased to render suit and service, the lord also ceased to render the correlative of that suit and service, viz. protection, and it by no means follows that holdings at a low rent should be liable to resumption merely because the holders formerly rendered suit and service and now render none; (2) that if the idea of absolute tenant-right was totally new to the people of Oudh, the idea of absolute proprietorship of the soil *by an individual* was almost equally novel; (3) that when a fluid state of society is being deliberately and consciously crystallised, which was the process going on in Oudh for several years after reoccupation. beneficial customs, such as that which protected cultivators on all decently managed estates from eviction and rack-renting, should be consolidated into law, and the practice of good landlords made binding upon all.

In April 1864 Mr. Wingfield met Sir John Lawrence and Mr. H. S. Maine, then legal Member of Council, at Cawnpore, and the differences of opinion which prevailed between the Gevernor-General and the Chief Commissioner were discussed at length. The points in issue between them were mainly two, viz:—

(1) Should the period of limitation allowed for the assertion of under-proprietary claims be extended for twelve or twenty years backwards from 1855, or should it, as was then the rule, be reckoned from 1855 only ?

Sir John Lawrence maintained the former, Mr. Wingfield the latter, alternative.

(2) Should the question of tenant-right be gone into by settlement officers, and the rents of all tenants who were found to possess a right of occupancy be judicially determined and recorded ?

Sir John Lawrence answered, yes; Mr. Wingfield, no.

The Governor-General offered to leave the supervision of the settlement in the Chief Commissioner's hands, on condition of his agreeing to accept and carry out the principles which he had hitherto resisted; otherwise he proposed to appoint a Settlement Commissioner to relieve him of the financial branch of the administration.

Mr. Wingfield asked for time to consult some of the leading Taluqdars and to consider "whether he could conscientiously give the necessary assurance," and, on the 15th of May, wrote to Sir John Lawrence to the effect that he himself and the leading Taluqdars whom he had consulted were ready to agree to the extension of limitation for under-proprietary claims to twelve years computed from the date of the summary settlement of 1858-59, on condition that "where villages have been annexed to the taluqa within twelve years, the persons who were in full proprietary possession will not be entitled to recover the equivalent of their former rights (viz. a sub-settlement at the Government demand *plus* 5 per cent. as the due of the Taluqdar), but only to the most favourable terms they enjoyed in any one year since the incorporation of their lands with the taluqa."

Thus, (the example is not Mr. Wingfield's), if a zamindar had been in full proprietary possession of a village up to 1850, and in that year had been forcibly dispossessed by a Taluqdar, who left him, say, five acres of land rent-free, and nothing else, for the following six years, those five acres rent-free would be all that he could be decreed by our settlement courts.

To this concession, thus guarded, he had no doubt that the Taluqdars, as a body, would assent, and so far he was ready to conform to the Governor-General's views. But on the second point—"the record of any non-proprietary cultivators as possessed of a right of occupancy, and the limitation of the rent to be demanded from them during the term of settlement" Mr Wingfield was satisfied that the Taluqdars would never give way, and he himself held that they would be justified in their refusal. He repeated his conviction that non-proprietary cultivators had no right of occupancy, and that to recognise such rights would be a breach of the *sannads* (for the terms of which Mr. Wingfield was himself responsible), and fatal to the progress and prosperity of the province. He held it to be "impossible to deduce from any length of permissive occupancy"

—a somewhat question-begging description of adverse possession—"the conclusion that it establishes an interest adverse to that of the landlord"; predicted that the Taluqdars would fight every case to the uttermost; urged that the Government of India should hear what a deputation of Taluqdars had to advance before any change was resolved upon; and avowed that by carrying out any policy which recognised a right of occupancy, he would be doing violence to his own convictions.

On the 28th of May Sir John Lawrence replied to this letter, thanking Mr. Wingfield for writing so frankly, expressing approval of the Taluqdars' concession on the first point in issue, and accepting the proviso with which they had coupled it, though of opinion that the period of limitation should count from 1856; but, for the rest, denying Mr. Wingfield's facts and repudiating his inferences as regards tenant right. "If this," he wrote, "were a mere question in which the interests of a few individuals were concerned, I might hesitate in maintaining my own views. But it is really a question in which are involved the interests of a great body of men, many of whom, I have no doubt, are the descendants of the old proprietary communities of the province of Oudh, whose rights are now enjoyed by the Taluqdars of the present day. When these Taluqdars talk of their rights, they should recollect that the chief value of these rights viz. their permanence and security, is derived only from the British Government, and that under native rule they are always liable to lose their possessions in the same fashion as they won them. The value which British rule has given to their property, is enormous. . . . I do not myself believe that the admission of the ancient tenants of land, the old hereditary cultivators and the broken-down, ill-treated descendants of former proprietors to the right of occupancy, and to fair and equitable rates, will infringe in the least degree the policy of Lord Canning." Sir John did not wish to introduce Act X. of 1859 (the N.W. Provinces Rent Act) into Oudh, but thought that if the Taluqdars would not consent to some fair compromise, there would be nothing else for it. As for the proposal that a deputation of Taluqdars should wait on the Government, he saw no good likely to arise from such a step, and thought that the Chief Commissioner could continue to urge all that was to be said on their behalf.

Mr. Wingfield wrote again on the 6th of June, to say that the Taluqdars would not object to reckoning the period of limitation from 1856, but, *au reste*, reiterating his objections to tenant-right. Finally, weighing, with perfect candour and disinterestedness, the arguments for and against his retaining the office of Chief Commissioner, he left the issue in the hands of the Governor-General.

While this demi-official controversy was going on, and after considering the voluminous defences of the Oudh policy which has been summarised a few pages back, Sir John Lawrence took refuge in the usual resource of an Englishman in difficulties—he went to his lawyer. On the 21st of May 1864, extracts from the correspondence between Lord Canning and Mr. Wingfield regarding the wording of the Taluqdars' *sannads*, from Mr. Wingfield's "record of rights circular," and from despatches of the Secretary of State for India issued in 1860 and 1861, were submitted, with a letter signed by Colonel Durand, but really drafted by Mr. Maine, to the Advocate-General, Mr. Cowie, whose opinion was requested as to (1) "the effect of Section 25 of the Indian Councils Act, 1861, on the statements, orders, and directions contained in the documents presently cited"; and (2) "whether persons claiming to be under-proprietors in Oudh, that is, persons claiming an interest in the soil intermediate between the Taluqdar and the ryot, are restricted to establishing such rights as were actually enjoyed in possession at the moment of annexation, or, what is the same thing, whether all rights existing previous to annexation, but not actually enjoyed when Oudh was annexed, are destroyed, unless revived by legislation."

The second of these queries, it will be perceived, was only a more specific form of the first.

The Advocate-General took nearly four months to consider the questions thus raised, and it was not until the 13th of September that he delivered himself of the opinion that Section 25 of the Indian Councils Act "must be read as applicable to such rules and regulations as were in the nature of laws affecting rights or imposing punishments, and that any rules or orders which in their nature were only rules for the guidance of a department or for the action of the executive, and which could be, and always have been, issued by the Government in its executive capacity merely, do not come within the section" From this he deduced the conclusion that of the documents relating to Taluqdars and under-proprietary rights which had been submitted to him, the only one that came within the scope of Section 25, and received from it the force of law, was the declaratory order of the Government of India, dated the 10th of October 1859, which laid down that every Taluqdar who was admitted to engage for the revenue at the second summary settlement, "thereby acquired a permanent, hereditary, and transferable proprietary right in the taluqa for which he has engaged, including the perpetual privilege of engaging with the Government for the revenue of the taluqa. This right is, however, conceded subject to any measure which the Government may think proper to take for the purpose of protecting the inferior zamindars and village occupants from extortion, and upholding their rights in the soil in subordination to the Taluqdars." This declaration and proviso (which have been appended as Schedule I. to Act I. of 1869), were given the force of law by Section 25; but all the other documents in question, and more particularly "the so-called record of rights," even apart from the absence of the Secretary of State's sanction, had not, in the Advocate-General's opinion, any such validity. "Practically," he concludes, "it appears to me that the reservation introduced in the Governor-General's order declaring the proprietary rights of the Taluqdars is so wide that it leaves the rights of the under-proprietors where they were. And those rights remain as they were prior to annexation, and will so remain (subject, of course, to the effect of the Limitation Act), except in so far as they may be affected by express legislation."

Before being fortified by this legal opinion, Sir John Lawrence had indited a minute, dated the 20th of June 1864, in which he declared that "ever since the reoccupation of Oudh, it has been the uniform aim of the Chief Commissioner to sweep away, as far as practicable, all subordinate rights and interests in the soil in all the Taluqdari villages of the province. . . . and when he could not accomplish this, to restrict them to the narrowest limits. The struggle between the Taluqdars and the village proprietary bodies, which had commenced on the annexation of Oudh, ended in 1859 in the almost complete success of the former class. Out of 23,522 (query : 23543 ?) villages" included in taluqas in 1856, "the Taluqdars succeeded, after a mere nominal inquiry, in establishing their claims to 22,637 The mode in which this inquiry was made was criticised by the Secretary of State, but it was nevertheless maintained. . . . We have the example in Bengal before us (a very similar instance to that of Oudh in more than one respect), in which, when enormous interests were conferred on one class, the interests, and indeed the rights, of another class were to a great extent sacrificed. The condition of the weak and friendless village proprietors and hereditary cultivators of the soil was undoubtedly very wretched under the late rule in Oudh; but their position will become gradually still worse under the British Government, if the principles and policy advocated by the Chief Commissioner are allowed to become the rule and law of the country. In the days of the Nawab, the chiefs had some interest in protecting the yeomen of the country, and in conciliating their kinsmen and tenantry; but under a strong Government like ours, such friends and followers are not necessary, and will therefore be treated accordingly. Such considerations are of peculiar importance in India, where the cultivators are greatly attached to the soil, and where the masses have very limited and uncertain means of employment except in agriculture. In 1859 the Chief Commissioner of Oudh proposed that the proprietary right in the land should for ever be considered to rest absolutely in the parties with whom the summary settlement had been made—a practice, I may say, unknown in India. Now, such a decision would have given the *coup de grace* to every village proprietor and hereditary cultivator in all the taluqas of the country." Here Sir John Lawrence would seem to have somewhat overstated what Mr. Wingfield actually did propose, but he goes on to say that though the proposition was disallowed by the Government of India, investigation into subordinate claims was "limited to rights which existed"—it would have been more strictly correct to say, which were enjoyed—"in 1855, whereas it ought to have extended back for full twenty years, for it was during that period that the greatest misrule had prevailed."

Mr. Wingfield's instructions to settlement officers, prohibiting the record of occupancy rights, were, in Sir John Lawrence's opinion, "unsound and impolitic, as well as unjust. He denies that the cultivator needs any protection, or has ever stirred in his own interests. He thinks that it is no evil men being forced to abandon their own homesteads; and that the system of granting leases will form a complete protection to the ryot, totally forgetting that everything will depend on the terms of each lease." There was no valid ground for Mr. Wingfield's distinction between Taluqdari and zamindari estates, which barred all claims to subordinate rights in the former which were not actually enjoyed in 1855, while in the latter it allowed a twelve years' period of limitation. The Chief Commissioner's suggestions that a three years' period should be prescribed for suits to contest decisions of settlement officers was described as "an excellent plan when the investigations and decisions have been made on proper principles, but out of the question in regard to the present settlements." Sir John then alluded to the reference which he had made to the Advocate-General as to the legal validity or otherwise of the "Record of Rights Circular." If Mr. Cowie decided in favour of its validity, a bill should be brought before the Legislature for its modification. "In the meantime the system of inquiry into and record of the landed tenures of Oudh should be altered as early as possible, for much time has already been lost." After referring to the conference in April at Cawnpore between Mr. Wingfield and himself, he proceeded to ask his colleagues what was in their opinion the proper course to pursue. Hitherto, he declared, no real inquiry into tenant-right had been made or permitted. "The Chief Commissioner assumes that which should be the subject of examination. . . . All the orders which have emanated from the Government of India connected with the points now under consideration, from the time that Mr. Wingfield has been Chief Commissioner until my arrival in India, have been founded solely, so far as I can judge, on the reports of that gentleman. No information from any of the Commissioners or Deputy Commissioners has been forthcoming until especially sent for in February last. The instructions of the Secretary of State for India practically remained a dead letter." Mr. Wingfield in his capacity as Financial Commissioner, being the ultimate appellate judge in all suits relating to land, able to lay down what claims should be heard, and the mode in which they should be investigated, and his views, moreover, being shared by the Settlement Commissioner, Mr. Currie, "it may be judged what chance any man in Oudh has to substantiate a claim as an hereditary tenant in the land."

To remedy this state of things, and to give every man a fair chance of being heard, Sir John proposed that the original arrangement should be reverted to, and Mr. Wingfield be relieved of the duties of Financial Commissioner, which should be entrusted to a separate officer. The four Commissionerships of Oudh had been reduced to three when, two years previously, the post of Settlement Commissioner had been created and conferred on Mr. Currie.

Sir John suggested that the fourth division, that of Rai Bareli, should be re-formed, and Mr. Currie put in charge of it, the office of Settlement Commissioner being abolished. These changes seemed to the Governor-General urgently required in Oudh, and he accordingly proposed them for the consideration of his colleagues.

The first Member of Council who took up his parable in reply to Sir John's invitation was Mr. H. S. Maine, whose cultivated lucidity of style is a pleasant change from the comparatively headlong and unfinished writing through which we have been wading so long. "No quality," he declares, "is rarer or more useful in India than a healthy scepticism," and he laments that the virgin field for inquiry into the question of hereditary occupancy which Oudh had presented after the Mutiny had not been explored in an impartial spirit. The results of a dispassionate investigation "would have been of the utmost political and social, and even of the utmost historical value." He himself believed that "the inquiry would have ended in establishing the existence of hereditary tenants; but it was possible that the evidence to the contrary might have been so strong as to render doubtful their existence in any part of India. Or, again, the Oudh tenures might have been shown to be *sui generis,* or, lastly, it was not improbable that beneficial rights of occupancy might, through long years of anarchy, have been reduced to the level, as regards liability to rent, of tenancies at will "

But Mr. Wingfield had fallen into the same mistake with which he had reproached his opponents. He had assumed his own conclusions, and simply opposed those assumptions to the contrary ones. A perusal, while at Simla in 1863, of the demi-official correspondence between the Chief Commissioner and the Foreign Secretary had strongly impressed Mr. Maine with the "persistency of the Oudh officials in making assumptions instead of stating facts. It seems impossible to get them to answer *aye* or *no* to plain questions, and every inquiry about the hereditary tenants produced either observations on the fallacious basis of the north-western system, or an assertion that the recognition of beneficial occupancy was an invasion of the rights of property." The same peculiarity struck Lord Elgin also. Had Mr. Wingfield's assertions as to the non-existence of hereditary tenants been made before the issue of his "so-called record of rights" circular, they would have been important as at least indicating the "impressions of an acute observer." But in the earlier documents relating to the controversy, the question had never been discussed as one of fact, and Mr. Wingfield's later declarations, after his policy had been long settled and partially carried out, could only be regarded "as another illustration of the ductility of men's impressions of fact under the influence of a foregone conclusion. All evidence of the subordinate Oudh officials unfavourable to the hereditary cultivators which is subsequent to the date of the record of rights, we are justified, I think, in regarding as vitiated in its source." The hands of these, the only persons who could satisfactorily have investigated the question, had beed tied. Mr. Wingfield himself did not seem to have had much opportunity of examining it at first hand; while "the very character of his eminent services in managing, educating, and training to public functions and public spirit the new aristocracy created by Lord Canning, would seem to show that his intercourse has chiefly been with persons who, even if they had not had a strong interest in denying the existence of these tenures, have probably very imperfect ideas as to the difference which in a settled society is recognised between might and right." No one had such opportunities for getting at the real state of facts as settlement officers, but their "priceless testimony" seemed to have been "sacrificed in Oudh . . . . vitiated by the strong language of the record of rights; and yet there is just enough of it to lead us to suspect what result could have been arrived at if the inquiry had been unfettered."

The course which Mr. Maine recommended was to join issue with the Taluqdars on the question which they had raised as to the existence or non-existence of beneficial rights of occupancy, and to institute a full and free inquiry. He also advised the appointment of a Financial Commissioner, but deprecated the introduction into Oudh of Act X. of 1859, inasmuch as it contained provisions for the manufacture of hereditary cultivators, whether previously existing or not, and this, he considered, would be an act of "injustice to the Taluqdars, if not a breach of faith."

And here it may readily be admitted that, in the then state of the question, and on the only grounds that were then recognised, which were grounds of right on the part of the cultivator, not of economical necessity, and consequent duty on the part of the State, the act would have been a breach of faith. Landlords, moreover, could have easily defeated that part of the Act which makes a right of occupancy result from twelve years' possession by ejecting wholesale all ordinary tenants of less than twelve years' standing. On these grounds, as well as on the principle that partial reforms are the greatest enemies of complete ones, and that it was necessary that the state of the Oudh cultivator should become worse before it can be made better, there is room for satisfaction that this opinion prevailed, and that Act X. of 1859 was not introduced into Oudh. Turning to the question of extending the period of limitation for claims to subordinate rights in taluqas, Mr. Maine held that the arguments against extension derived from the *sannads* and Lord Canning's declaration were of no weight. For the *sannads* did not limit the recognition of under-proprietary rights to rights commencing in any particular year; and the Secretary of State had distinctly withheld his approval from Lord Canning's declaration. The Taluqdars, moreover, had assented to the extension, or were ready so to assent.

But apart from this, Mr. Maine held that there are—

"Grave objections to admitting that any course of policy adopted or announced by the Government of India carries with it a pledge or promise to any class affected by it. It is too much the habit in India to complain of the abandonment by the Government of any particular principle or line of action, as if it involved a breach of faith to those who had profited by it. In old times, when the British Government had just succeeded to a despotic power which dealt with its subjects as if it were a single person, and did not affect to regard any interest but its own, it was not unnatural to look upon our declarations of policy as amounting to a personal engagement; but such a view of our position is irreconcilable with the functions of a government which now pretends to exist for the advantage of its subjects, which is bound to carry out every measure which is likely to contribute to their happiness and prosperity, and which is not ashamed to admit that it learns by experience. In point of fact, the very existence of a regular legislature in India is inconsistent with the notion of our faith being pledged to the policy of any particular year or period. The indistinguishable blending of executive and legislative functions in the Government of India at the time when the permanent settlement of Bengal was effected does seem to me to furnish some ground for looking on that measure in something like the light of a compact, but I think it would be preposterous now-a-days to put the same construction on the policy pursued in 1858 and 1859 towards the Taluqdars of Oudh."

These are words so weighty, both in themselves, and as coming from an authority of such calibre as Mr. Maine, that no apology is needed for quoting them at length. They were intended, however, only to apply to the question of good faith. As a matter of policy, Mr. Maine fully recognised the inexpediency of "abrupt recoils from one line of action to another." He thought that in the present instance there was a "justification for interference in what he would not assume, but could not help suspecting to have been a cruel injustice"; but one ground on which he preferred his own recommendations to the Governor-General's proposal certainly was that they did not involve what was, on the face of it, so open a departure from the policy of Lord Canning.

In Mr. Maine's conclusions and advice as to the steps that should be adopted, Mr. Taylor and Sir Charles Trevelyan concurred. The latter argued that by the common law of India the land belonged to peasant proprietors, generally associated in village communities, and bound to pay to the ruler a portion of the produce generally known as *Hakimi Hissa*, or the share of the sovereign; and that all that the State could bestow on an intermediate holder, Jaghirdar, Taluqdar, or whatever other name he might be known by was its own (or, as is more usual, a portion of its own) share of the produce.

It would, perhaps, be more strictly correct to say that both in Hindu and Mughal theory the ownership of the soil vested jointly in the King (or Emperor) and the cultivator, the former being the sleeping, and the latter the active, partner in the business of agriculture.

Sir Charles Trevelyan further maintained that the clause in the *sannads* reserving subordinate rights wholly obviated the possibility of any breach of faith being involved in the proposed measures. A similar clause had been one of the conditions attached to the permanent settlement of Bengal; but, except in Banaras, the failure to carry it out by an inquiry into the record of subordinate tenures had led to "the greatest of the evils which had afflicted that province during the best part of a century, and one of the greatest causes of weakness and discredit to the British Administration." A similar omission would, he feared, lead to as bad or worse results in Oudh.

So far, opinion in Council was dead against Mr. Wingfield's policy. But in Mr. Grey he found a staunch defender. As the Taluqdars were willing to give way on the question of limitation for under-proprietary claims, he would only remark on that point that he thought the Governor-General was unjust to Mr. Wingfield in saying that he had steadily endeavoured to sweep away all subordinate rights. In Mr. Grey's opinion, the chief Commissioner had been loyally endeavouring, as shown by his instructions to settlement officers, to carry out the orders of Lord Canning With regard to occupancy rights, Mr. Grey despaired of convincing anyone who had remained impervious to the arguments of Messrs. Wingfield and Currie, and would therefore confine himself to a statement of the case as it actually stood, merely remarking that he entirely concurred with the views of those gentlemen. The conclusion which he drew from the reports of the Oudh officers was that Mr. Campbell's "general theory" of the existence of rights of beneficial occupancy was wholly baseless; and, believing that the object now in view was really the setting up of this general theory, and not an inquiry into "individual rights susceptible of being substantiated by tangible proof," he strongly deprecated a reversal of "the deliberate action of a former Government." He could not admit that the question was an open one on which the Government of the day was free to act as it thought best. The *sannads* did not expressly reserve the right of old cultivators to occupy their lands on favourable terms. Lord Canning's letter, No. 23 of the 19th of October 1859, explained the reservation clause to mean that "whenever it is found that zamindars or other persons have held an interest in the soil intermediate between the ryot and Taluqdar, the amount payable by the intermediate holder to the Taluqdar will be fixed and recorded." The tenor of the correspondence relating to the *sannads*, between Lord Canning and Mr. Wingfield, clearly indicated that it was only under-proprietary rights, and not occupancy rights of cultivators, that were intended to be reserved. The Secretary of State's despatches of the 24th of April 1860 and the 17th of August 1861 did not allude to occupancy ryots, and only withheld approval of limiting recognition of under-proprietary claims to such as had been actually enjoyed in 1855. It was true that when Mr. Campbell's plea for the record of what he called rights of occupancy at "regulated rates" attracted the attention of the Secretary of State, the latter, in his despatch of the 9th of

June 1863, certainly wrote of these occupancy rights as if they were of the same class as the rights referred to in his despatch dated the 17th of August 1861. But Mr. Grey thought that it was impossible so to interpret that despatch. The actual position of the question appeared to him to be that :—

(1) Mr. Wingfield had reported that no mere cultivators in Oudh, whether of high caste or low, had any right to hold land at less than market rates;

(2) Lord Canning had accepted this report, and authorised its being acted on;

(3) Therefore the Taluqdar's *sannads* did not contain, and were not meant to contain, any reference to such rights;

(4) This form of *sannad* was approved by the Secretary of of State;

(5) It was now proposed, in consequence of Mr. Campbell's report of the existence of "regulated rates," to "re-open and investigate afresh the question as to the general rights of the cultivators in Oudh."

Mr. Grey himself had no doubt that, whatever might have been the case in more ancient days, no such rights existed under the native rule which we superseded, and that any recognition of them now would be an act of injustice to the Taluqdars.

Sir John Lawrence wrote a second minute in reply to that of Mr. Grey. The answer is most crushingly complete, and, from the style in which it is couched, it is difficult not to suspect that Mr. Maine had some share in its composition. It points out that Mr. Wingfield's whole course of action indisputably showed that he desired, no doubt with perfect sincerity and conviction of purpose, to sweep away, so far as he possibly could, all subordinate rights in taluqas. The offer of the Governor-General to leave under his control the execution of the measures now proposed was ample evidence of his trust in Mr. Wingfield's "official uprightnes and capacity"; while the latter's refusal to accept the task under the conditions imposed by the Governor-General was "additional proof, were any needed, of the tenor of his conduct and of the bias of his mind." The sanction by Lord Canning, on the 8th of January 1861, of Mr. Wingfield's instructions of September 1860, directing settlement officers to record no distinction between tenants with a right of occupancy and tenants-at-will, could afford no possible ground for any inferences as to the original intention with which the form of *sannad* framed by Mr. Wingfield was approved of by Lord Canning in his letter of the 19th of October 1859. Mr. Grey, in fact, had transposed the order of time in which the proceedings took place. The Chief Commissioner, in his record of rights circular stated that "*he* has determined to make no distinction" between occupancy and other tenants; adding that the introduction of a right of permanent occupancy could only be justified by showing that nothing less would protect the ryot from ill-treatment. "This is not the language of a man who feels that he is restrained by a formal document from taking a particular step."

The terms, moreover, in which Lord Canning "approved generally" of Mr. Wingfield's instructions make it abundantly clear that he never dreamt that he was barred by the *sannads* from withholding his approval, and that he regarded the question simply as a matter of revenue detail. That the Secretary of State, while withholding his full opinion on the record of rights circular, of which he had received a copy from Mr. Wingfield while the latter was in England, had not expressly commented on its 31st paragraph, was no proof, as Mr. Grey had contended, that it had escaped his notice, or that if he had any serious objection to make he would have made it. He probably regarded it is a question which should be first thoroughly discussed by the local authorities before being dealt with by him. Mr. Grey went even further than Mr. Wingfield himself in his zeal for the rights of the Taluqdars. The latter did admit that no recognition of any really existing rights could infringe Lord Canning's pledges; while the former maintained that, whether rights of occupancy existed or not, they could not be recognised without a breach of faith. The obvious meaning of the saving clause in the *sannads* clearly was to cover "all persons holding any interest in the land under Taluqdars," and if anyone had been misled into the belief that rights of occupancy were not protected, this "must be attributed, not to the wording of the *sannad*, but to the practical limitation given to its terms by the refusal to admit the claims of cultivators." In short, the refutation of Mr. Grey's argument was so complete, that it would really be little less than brutal to pursue the subject further.

Only one more contribution to this "modern symposium" remains to be considered—that of Sir Hugh Rose, which was, perhaps, the most original of all. The gallant genaral candidly admitted that he was not master of "this purely civil question," but was strongly opposed to the disturbance, by an inquiry which might prove needless, of the "propitious calm of one of the most influential positions of India." He also expressed, not, he assured his colleagues, for the first time, "the opinion that in their own interests, and those of the people, the Taluqdars of Oudh should not be allowed to collect revenue," which he considered to be "the duty of a Government, and not the right of an aristocracy." What Sir Hugh imagined to be the functions of a Taluqdar, if not to collect the rents out of which he pays the revenue assessed upon his estate, can only be matter of speculation. It is strange enough that he should have expressed such an opinion once, but that he should, on his own showing, have done so a second time, is stranger still. Thus, somewhat grotesquely, ends the debate.

Its practical outcome was a letter, dated the 30th of September 1864, to the Chief Commissioner from the Government of India, much of which was a *resume* of the minutes which have just been summarised, and need not, therefore, be repeated. Claims to under proprietary rights in taluqas were to be tried on their merits if the rights claimed had been actually possessed in or after 1844, *i. e.* within twelve years prior to annexation. But all that could be decreed to the claimants was "the most favourable terms enjoyed by the suitors in any one year since the incorporation of their lands with the taluqa, and not the equivalent of their former rights, viz. a sub-settlement at 5 per cent on the Government demand.

With regard to occupancy rights, the substance of the arguments in favour of a full and free inquiry into their existence was recited, and it was ordered that provision should be made for the impartial hearing of all such claims. To relieve the Chief Commissioner of this additional work, and in compliance with his own request, the appointment of Financial Commissioner of Oudh was revived, and conferred on Mr. R. H. Davies—then Secretary to the Punjab Government, and since, successively, Chief Commissioner of Oudh and Lieutenant-Governor of the Panjab—whose orders in all judicial matters were to be final, while he was to be subject, administratively, to the general control of the Chief Commissioner. The office of Settlement Commissioner was to be abolished, and the Baiswara (Rai Bareli) division, which had been absorbed, was to be reconstituted, and placed in charge of Mr. Currie.

Finally, Mr. Wingfield was enjoined to "carefully impress upon the Taluqdars that, whilst His Excellency in Council has no desire or intention of infringing the terms of the *sannads* granted them so long as they abide by the conditions binding on themselves, His Excellency is equally resolved that the just and benevolent intentions of the Government towards the holders of subordinate rights and interests secured by the same documents shall not be frustrated."

Brave words ! How far they have hitherto been anything more than words will appear in due time.

The much vexed question was once more threshed out by the Secretary of State and his colleagues of the Indian Council. Sir Charles Wood, in his despatch of the 10th of February 1865, conveyed a general approval of the Governor-General's action, accompanied by a caution against doing anything more than was strictly necessary to satisfy justice, or taking any measures likely to lower the dignity of the Taluqdars. Perhaps the only passage in this despatch which can be considered a contribution to the subject is the following :—

"It appears to me that the grants in the *sannads* are necessarily co-extensive in their operation with that of the confiscation on which they are based. If only proprietary rights were forfeited it was only necessary to re-grant proprietary rights, and then the occupancy rights remained on their former footing, whatever that was. If occupancy rights were forfeited, then they were restored and preserved under the *sannads*."

This despatch was approved by a majority of nine to three in the Council. Sir James Hogg, Sir Erskine Perry, and Mr. Macnaghten, the three dissentients, wrote more or less elaborate justifications of their dissent, while Sir Frederick Currie and Captain Eastwick recorded their reasons for concurrence. Any attempt, however, to analyse their arguments would be an abuse of the patience of the most long-suffering reader, and our attention may again be turned from Calcutta and London to Oudh itself, and centred, for a little, in Lucknow.

Shortly after his appointment as Financial Commissioner, Mr. Davies, on the 15th of October 1864, issued a circular to all commissioners and settlement officers in Oudh, laying down as a general rule of limitation that all suits for rights in the soil, whether in taluqas or in zamindaris, should be "heard and decided on their merits, provided that the dispossession of the claimant cannot be proved to have endured for twelve years from the date of annexation," *i.e.* from the 13th February 1844 to the 13th of February 1856. This circular was followed on the 24th of October by a second, declaring that "rights of cultivators, other than tenants-at-will, must be carefully investigated, and if judicially proved to exist, recorded in the settlement records." An inquiry was to be commenced simultaneously in each of the districts under settlement, *i.e.* in all the twelve districts of Oudh, except Gonda, Bahraich, and Kheri. Lists of non-proprietary cultivators claiming a right of occupancy "in an equal number of villages (say twenty-five of each) whether held by Taluqdars or proprietary communities," were to be drawn up, and each case was to be investigated by the settlement officer or his assistant. Among the points to which inquiry was to be directed were (1) the *khasra* (or field book) numbers of the lands in which a right of occupancy was claimed; (2) whether occupancy of the same fields had been continuous, or, if it had been changed, whether, by local usage, such change injured the right or not; (3) the duration of the occupancy, and the number of successions in the family of the claimant; (4) the mode in which the occupancy arose, "whether by breakage of waste, by grant, or agreement, or otherwise"; (5) whether the proprietor had ever evicted, or could evict, the claimant or his ancestors; (6) the mode in which rent had been paid, variations, if any, in its amount, and the terms claimed in regard to it. The decision was to explain clearly the "nature of the right of occupancy, if any be decreed; whether it carries with it the right to pay anything less than the rack-rent demandable from the tenant-at-will, or a fixed rent, or nothing but a preferential title to cultivate so long as the proprietor's demands are fulfilled." Mr. Davies hoped to be able to issue further general instructions as to the disposal of this class of cases, after reviewing a certain number of decisions.

It was not, of course, to be expected that the Taluqdars would fail to exert themselves to discredit the Governor-General's action. The local papers abounded in denunciation of Sir John Lawrence and Mr. Davies. The "Englishman," the "Indian Daily News," and the "Delhi Gazette" were not behindhand. The British Indian Association held meetings to condemn the "communistic" policy, at which the eloquence of Maharaja Man Singh, "the patriotic Brahman," as the local organ of the Taluqdars fondly styled him, was especially conspicuous. One of the favourite arguments of the opponents of the inquiry into tenant-right was an appeal to experience of what had been done in this way in the Panjab after its annexation, or in other words. a warning that, by the introduction of tenant-right, the state of one of the least flourishing provinces of India might be assimilated to that of one of the most prosperous. For it can scarcely be denied that the condition of the Panjab is economically better than that of Oudh. Another bulwark of the opposition was the assertion that "the universal practice of exchanging *pattas* and *qabuliyats* (leases and counterparts) which prevails in Oudh incontrovertibly falsifies such an idea" as that of the existence of a right of occupancy. The practice, however, so far from being universal, was, and in many parts of the province still is, rather rare than otherwise.

"The ryot rose in the morning, and went to his bed at night, fully aware that his landlord had the power to drive him out of his house and field if he had sufficient reason to do so," and any measure likely to weaken this satisfactory conviction in the mind of the cultivator could not fail to be ruinous to society. "A high rent is the true sign of national prosperity," and Government was adjured not to hurl India back to "the darkness and stagnation of its past ages," by interfering between landlord and tenant, but rather to "leave them free to work out their several good, to go forward in the bright career before them, and to establish peace and prosperity to its loyal subjects." The "Hindoo Patriot," the organ of the Bengal landlords, was even of opinion that whatever "might have been the usages of the country or the ancient rights of the people, they had all been annulled by the edict of confiscation." Such are a few of the gems with which this somewhat ephemeral literature was lavishly decorated.

All this is bad enough, certainly, but after all it is not worse than much that has been said and written by landlords in other countries when they thought their privileges were in danger. When, moreover, the assiduity with which the Taluqdars had for five years previously been educated by Mr. Wingfield is remembered, it must be admitted that a good deal of allowance is to be made for them, and even that, on the whole, they displayed a creditable moderation. Perhaps the most eager invective against the proposed measures was that indulged in by one of the most *parvenu* Taluqdars in Oudh, "the patriotic Brahman," some account of whose previous history, and of the rise of his family from obscurity, together with the mode in which their estate was put together, has been already given. If the Maharaja Man Singh was half as clever a man as he is generally supposed to have been, he can hardly have failed to perceive the comical nature of the situation, and must have felt very like Lord Beaconsfield expounding the virtues of fat oxen to an audience of Buckinghamshire farmers. Viewed in this light, his address to the British Indian Association was really a piece of exceedingly gracious fooling. "If these rights belong to our tenants," he declared, "we cannot overbear them. I do not suppose there is one among us who would deny this, and would be willing to take away the property of those who have eaten his salt for ages. Religion, morality, law, and social usages would all compel us to give up what is not our own." The orator omitted, indeed, to mention for how many ages the tenants of the Mahdona estate had eaten the salt supplied by his family, or how far "religion, morality, law, and social usages had been effective in leading him to restore to the plundered zamindars of Faizabad the lands of which his father Darshan Singh and he himself had deprived them. But these, after all, were matters of detail, and his period was perhaps quite as effective without them. "You are all aware," he continued, "that our ryots live on our estates only by sufferance." Of course they were all aware of it, or they would not have been the men they were. They have been allowed to retain hold of our lands for generations, not because they had any right to what they held, but because we were kind enough not to deprive them of their homes and comforts every now and then. . . . The ryots all along knew, however, that we had power to deprive them of their holdings *if they in any way crossed us*. . . . Possession, however continued it may be, is not right. I may keep in my possession a golden ornament of another for centuries together, but still it is his, and I have no right thereto."

Disinterested native opinion is generally opposed to the doctrine that the recovery of a right should be barred by any definite lapse of time, so that this view of the law of limitation, though peculiar in itself, was not unsuited to the audience to whom it was expounded, always providing that it was not intended to apply to the claims of ousted zamindars. What is more noteworthy is the phrase italicised, which is not without instructiveness for those, if there are still any such, who maintain no landlord would ever think of ousting a tenant who was willing to pay a fair rent for his holding. I have perhaps lingered too long over the spectacle of the Maharaja Man Singh posing in the attitude of the hereditary feudal chief, but the humorous aspects of the Oudh land question are so rare, that when one does come upon one of them, it is not easy to let it go at once. It is high time, however, to plunge once more into the grave realities of the tenant-right inquiry, an account of which can best be given district by district.

The investigation in Rai Bareli was conducted by Captain (now Colonel) Macandrew—at present Commissioner of Sitapur, and author, among other kindred works, of a valuable little treatise on "Some Revenue Matters"—and by his assistant, Mr. Lang. Its result was, in Captain Macandrew's own words, that "tenant-right did not exist in any shape under native rule in the Rai Bareli district," and that "the only idea" which the people had on the subject was "that they have a sort of right to cultivate their holdings, so long as they pay the rent which may be demanded."

Turning to the records of the cases themselves, which are printed in their entirety in the tenant-right Blue Book, we find a general consensus of opinion among the cultivators examined, or those of them, at any rate, who were of high caste, that they had a right to complain to the Chakladar if oppressed or ousted by the landlord. None of them had ever done it themselves, but they had heard that their fathers used to do so. Some said that the Chakladar never listened to *asamis*, but there was evidently a general impression that the proper thing for an oppressed *asami* to do was to complain to the Chakladar. "Of course," said one, "the Taluqdar could loot an *asami* if he would; it was always a state of disturbance during the Nawabi." There was also a general notion that under British rule, cultivators, as a matter of course, enjoyed fixity of tenure. Indeed, there seems some ground for supposing that there was a tendency on the part of many of the cultivators examined to exaggerate the misrule which had prevailed under the King of Oudh, by way of paying a compliment to the new order of things, *e.g.* in one village belonging to Rana Shankar Baksh of Khajurganw, all the tenants who were questioned stated that "in the Nawabi, the zamindar could do as he liked, either raise the rents, or oust them, but that he cannot do so under British rule. When asked why he cannot now, Hewanchal, Tirbedi, says he gave a *sawal* (petition) at Bareli some four years ago that he was ousted, and was put back in possession." Again, Goka, Sukul, when asked if the Taluqdar could have turned him out in the Nawabi, answered, "No, he should not," on which the following dialogue ensued :—

"Q. If he did, what would you have done?

"A. I would have complained to the Hakim.

"Q. Would he have listened to you?

"A. I can't say. I don't know of any instance in which he gave an order in such a case.

"Q. Do you consider, if you paid a less rent than the value of your land, the lambardar has a right to raise it?

"A. Formerly he had the right, now he has not.

"Q. Why has he not that right now?

"A. In the Nawabi he could have beaten me and turned me out; now he cannot do so."

Again—the witness being Jagannath, Dichit, in another village :—

"Q. Then you allow he had the power to oust you?

"A. Yes, but it is not right for him to do so."

Low-caste cultivators, however, generally speaking, disclaimed all rights of any kind.

The cases investigated in Sultanpur are not instructive, being nearly all claims for what was really under-proprietary right, brought by zamindars or founders of hamlets, not claims to rights of occupancy by cultivators pure and simple. Some of Captain Perkins' remarks, however, are worth quoting :—

"The tenants of this district can scarcely understand the rights which it was supposed they might possess : they are an ignorant body, and have been too much in the condition of serfs to have any clear notion of rights based only on long occupancy. . . . If possession of the same fields for a course of years at equitable rates creates a right of occupancy, the rights to be recognised would still be very few, for tenants, as a rule, have held their fields at inequitable rates. . . . Occasionally, the landlord is found to have brought rents" of high and low-caste cultivators alike "almost to a uniform level. The high-caste man groans under what he considers oppression, but he does not dispute the right to oppress him." A right of occupancy seemed to be conferred by founding a hamlet, locating cultivators, or planting a grove, "but the difficulty of making such inquiries has been considerably enhanced by the fact that the chief landholders have learned, through the medium of circulars, to deny the existence of such rights . . . . The practice of the Revenue Courts has tended to teach old cultivators that they cannot be ousted, and they bless Government for the boon, but do not think that the right exists independently of the pleasure of the Administration."

The Pratabgarh inquiry was conducted by Mr. R.M. King, and his assistant, Captain Ralph Ouseley. Mr. King seems to have felt too vividly the ludicrousness of the views of tenant-right entertained by many of the cultivators he examined to make a very laborious or exhaustive investigation of the subject. And many of them certainly are funny, very funny, *e.g.* as an illustration of moral force, one Brahman alleged that he could not be rack-rented because "he could grow his hair at the zamindar, who would at once desist, terrified at such a danger." Beni, Murao, "would sue if ousted, because he has made his *khets* (fields) so nice, and spent so much in manure; would not stand being turned out by anybody but the *Sarkar* (Government)." Girje, Kurmi, "is a cultivator, and is fully aware of it, and thinks it is a poor position." Another "would refer the question of his ouster to Government, if it occurred; all such ouster is *zabardasti* (oppression)." A fifth "has a cultivator's rights; says these are a right to fill his belly." A sixth "has a cultivating right; has done so much in tilling and manuring that it would be a shame to turn him out; would not live if he were ousted."

The most noticeable discovery made by Captain Ouseley in the course of his inquiry was that of two *parwanas* issued by native officials, dated 1251 Hijri, and 1243 Fasli, forbidding the zamindars of Rani Mau to raise the rents of certain Brahman cultivators of that village.

But if Mr. King's records were somewhat meagre, his report is exceedingly valuable. In it, for the first time in the history of the controversy, is the question of tenant-right placed upon its true footing, as a matter of public policy.

"What," he asked, "were the relations between the Taluqdar, the cultivator, and the native Government of Oudh, which we have promised (by the *sannads*) to maintain ? I hold it to be a true view that the Government of Oudh looked upon itself as sole owner of the land of the country it governed, except in those cases where it had alienated that right by its own act, and that this idea was only modified in practice by the limited power of the Government.... The only beneficial use to which Government could put its assumed property in the land was the raising of revenue from it; and therefore they practically recognised the existing facts of the appropriation of the land by the so-called owners, and the cultivation of it by the lower classes; and I think in their treatment of each class may be found the view they held of them. The landowner was, they thought, too much of an opposite interest to their own to be altogether approved of; but being a fact, and also capable of doing much to thwart the Government was tolerated and kept in check. The lower classes, or cultivators, were to them the working bees of the hive, from whose labours the revenue was to be drawn. The old traditions of the Mughal Empire, and probably of all Hindustani dynasties, wisely inculcated the maintenance of a contented peasantry as the firmest basis of their power, and though they succeeded remarkably ill in carrying out their intentions, yet the legend was not abandoned, an may be traced in the majority of the *pattas* for the annual payment of revenue from the native officers to zamindars, or even farmers. In these deeds '*riaya razi rakhna*' (to keep the ryots contented) is, next to the punctual payment of the revenue, the most indispensable condition of the tenure. It may be conceded, however, that the latter condition was not much more irreligiously observed than the former and I do not think that it can be argued from the misadventures of the Oudh Government in this particular, that they either never had, or ever abandoned, a power to exert themselves on behalf of the cultivators. To come to later times, it is a matter of history that the reforms which the British Government urged upon that of Oudh included some measure for the better security of the cultivating classes, and it is quite possible that had the King adopted any sound system for such an end, he would be at this moment reigning in Oudh, and have obviated the necessity for our present inquiries. Arriving, then, at the period of annexation, I believe the above sketch to represent truly the then status of the cultivator, *i. e.* that there was a Government tradition afloat as to the duty of protecting him; that there were some excessively poor attempts to protest him; but that at any time the

Oudh Government might by caprice or design have interfered in his behalf in a more or less effective manner. Passing over the annexation, rebellion, and recovery of the province, we come to the epoch of the *sannads*, which guarantee to the Taluqdar the rights which he had enjoyed at annexation. If my statements are so far correct as they apply to the power which resided in the Oudh Government at annexation, it follows that the Taluqdar was then liable to interference on behalf of the cultivator, and can it be, then, that the *sannad* guarantees him from all interference now ? . . . . The guarantee of the *sannads*, as far as it affects, or will in time be found to affect, the interests of others than the Taluqdars or the Government, must be as if it did not exist, and the question of tenant right, like all other similar ones, must be debated on its own merits and the demands of policy."

This extract puts the gist of the whole matter in the clearest possible light. The inquiry into the existence of tenant-right, as a question of fact, was no doubt an interesting historical research; but it was a grave, though, happily, not an irreparable blunder to separate it from the wider question of the desirability of establishing tenant-right as a matter of public policy; or to use language that might imply that Government was in the slightest degree debarred by the result of an inquiry into what had been in the past from taking steps which might be necessary or expedient for the public welfare in the future.

The settlement officer of Hardui, Mr. Bradford, reported that "such tenant-rights as are contemplated in Book Circular No. II of October 1864 do undoubtedly exist," and he divided the persons whom he considered to possess them into three classes, viz. (1) descendants of ex-proprietors; (2) high-caste cultivators, such as Brahmans and Rajputs; and (3) low-caste *chapparband asamis*, who had held the same fields for generations at unvarying rents. The rents of these three classes of cultivators should, he considered, be fixed and recorded.

Many of the first of these three classes had claims to under-proprietary right, and therefore did not come within the scope of the inquiry. As to the high-caste cultivators pure and simple, Mr. Bradford dwelt on the universality and antiquity of the custom by which they held their lands at beneficial rents; and urged the significant fact that fighting men of low castes, such as Baris and Pasis, and sometimes Kurmis, or even Mihtars, did military service for their Thakurs, but did not hold, like Brahmans and Chhatris, at low rents. This seems a sufficient answer to the assertion that low rents were merely the reward of military service, and to point to the conclusion that the true reason for granting them was one which still continues to exist, viz. the conventional inability of high-caste men to cultivate, or to live, as cheaply as men of inferior caste. In favour of the right of *chapparband asamis* to be confirmed in their holdings at the rent which they had been paying for generations, Mr. Bradford, while allowing that "the landlord could, during the Nawabi, have exacted more, had he chosen to disregard the law, the custom of patriarchal India, for they are synonymous," argued that this only proved the state of lawlessness and misrule which then prevailed. Where, in short, a beneficial custom had been found to prevail, it should be upheld, even though, under native rule, there was no authority which actively enforced its observance. Generally speaking, the cultivators examined by Mr. Bradford made no claim to retain the land against the will of the zamindar, and admitted that he could turn them out and enhance their rent if he liked, which, indeed, went without saying, though it was not customary, and not the proper thing for a well-disposed landlord to do.

The result of the Sitapur inquiry, conducted by Major Thompson, was reported by him to be that "a right of occupancy under native rule, on the part of non-proprietary tenants, cannot be traced." The most instructive part of his researches was the examination of kanungos, some of whose answers are worth recording. They generally agreed that the zamindar could do what he liked with land held by tenants, for "the landlord was the Hakim over his cultivators; the Chakladar was Hakim over the landlord." The zamindar, from a regard to his own safety, always tried to keep on good terms with high-caste cultivators, or *amneks*. "Disputes were very rare, because it was the interest of both to agree." Panchayats to arbitrate on claims to cultivating occupancy were unknown, for "a cultivator's right was not such a commendable (? desirable) thing as to form the subject of a claim or reference to arbitration."

Munshi Har Prasad, Extra-Assistant Commissioner, stated that the only persons who enjoyed complete immunity from eviction were the *Bhyas*, or relatives of the landlord. Even they, however, *could* be ejected:—"*The Taluqdar had the power to do it* *undoubtedly, for he had the power of life and death*, but he did not exercise it because they were his own relations." Exactly so. A powerful landlord during the Nawabi could evict a tenant, or enhance his rent, or take away his wife from him, or cut his head off, with as much, or as little, likelihood of being called to account by Nazim or Chakladar for one act as for another. That claims by dispossessed cultivators to be reinstated were almost unknown, was not surprising, for "the cultivation of the soil"—it is still Munshi Har Prasad who speaks—"was not considered a valuable thing. A man turned out of his holding by one landlord could get another holding immediately from another, and every cultivator could get the same terms which his caste usually got. Even the Bhyas, who had slightly better terms than the *amneks*, could get holdings on their own terms, for it was thought a very fine thing to get the Bhyas of a neighbouring Taluqdar to settle on an estate."

Kesri, Brahman, stated:—"I have never had a difference with my landlord, and he never interfered with me or raised my rent, but he could do what he liked. *He took away all the crop together from a cultivator if he was angry with him.*" It is a pity this witness was not asked whether he would have had any remedy in this latter case, and whether the Chakladar would have done anything for him.

"In the case of a man who had cleared jungle," says Major Thompson, "zamindars have admitted to me that the clearer would be entitled to hold the land as long as he paid rent, and that the rent would only be liable to enhancement if the Government demand were raised."

In Faizabad, Mr. Carnegy, with the aid of his Assistant, Captain Edgar Clarke, made an extremely elaborate inquiry, the result of which was, in his opinion, to disprove not only the existence of any occupancy rights in that district, but also in the adjoining N. W. Provinces district of Azamgarh, up to the time of its annexation, or "cession", in 1801. This, it may be observed, was in accordance with Mr. Wingfield's contention, that tenant-right throughout Upper India was unknown until created by ourselves; and if by tenant-right is meant a right to occupy land at a fixed rent, which could be enforced by the tenant, through a legal tribunal, against the will of the zamindar, there cannot only be no doubt that he was right in denying, but it may be questioned whether anybody ever asserted, its existence under native rule. "The cultivators of a powerful but prudent landlord," wrote Mr. Carnegy, "will be found, almost to a man, to have held at unchanging rates for years, while in the badly managed estates the changes were frequent." This is pretty strong evidence that it is not in well-managed estates that the introduction of universal tenant-right would prove injurious to the landlords. Nearly all the cultivators examined by Mr. Carnegy agreed that, if turned out by the zamindar during the Nawabi, they were helpless, "because," said one, "there was no one to listen to disputes between landlord and tenant." "The Taluqdar," said another, "could have ousted us without redress, because there was none for our class under native rule." As Mr. Carnegy himself puts it, "the zamindar could have ousted them if he liked, or could have driven them away by over-taxing them; and in either case they were helpless, because there was, under the King's government, no tribunal for the redress of tenant grievances." It was generally agreed, however, that no zamindar would oust a tenant and give the land to another, except in the event of a refusal to pay the rent demanded. Enhancement of rent was rare, and when it did occur, was general throughout a village, and rateable.

A number of Kurmi cultivators examined by Captain Clarke said that they and their ancestors had held the same lands for ten generations, but made no claim to a fixed rent. They had only one request to make, which was that the assessment of their village might be reduced, "because then the proprietor will have to pay less, and consequently we shall too." This is strongly suggestive of a little tutoring on the part of the zamindar, but there is no doubt that an increase of revenue is always followed by an attempt—usually successful—on the part of the malguzar to raise rents. Some Brahmans, endowed with more speculative acumen than most of the witnesses exhibited, declared, "We consider it to be our right to enjoy the same fields we now hold always; like as the Government lets the Taluqdar hold his villages always, so we are entitled to our fields always; and as regards the rents, the Court may do as it likes."

Ori, Hajjam (barber), stated that "during the King's time, the *asamis* were ground down, and dared not complain against the zamindar, and even if they had so desired, there were no courts to grant redress; but now things are altered, and he expects justice."

Shiodin, Khewat, said, "During the Nawabi the zamindar was all powerful; as long as the cultivator paid his rent, he was generally maintained, but could not claim to hold as a right; he could be ousted at any time at the will of the zamindar, and if he offered active resistance, was likely to be tortured, or perhaps killed. There was no redress in any court as under the British Government now. The zamindar ousted him in Asarh last. He complained to the district court, and was put in possession in spite of the zamindar, as there is nothing to fear. He could not, and dared not, complain in the Nawabi." By this time he has probably learnt the folly of complaining under British rule as it at present exists.

Here, as in other districts, the cultivator pure and simple had *no* rights which he could practically enforce against the will of the zamindar, and the occupation of particular fields was not, under native rule, valuable enough to make him struggle very much to retain it; it was, in fact, not recognised as a right at all, but rather as a duty. The only right in the matter was deemed to be the right of the zamindar to get his fields cultivated at the highest possible rent, not that of the tenant to cultivate them at the lowest. It should, moreover, be remembered that under the rules in force at the time this inquiry was made, ordinary cultivators in Oudh actually were, and believed that they would continue to be, better protected against eviction and enhancement of rent than in any other part of Hindustan, exclusive of the Panjab. The protective rules have since been swept away, and it is very doubtful whether, if the inquiry were now to be made over again, cultivators would dwell with the same freedom on their helplessness during the Nawabi as a thing that was past and gone, and quite certain that they would not speak with the same easy unconcern of their security under British rule.

> *"It so falls out*
> *That what we have we prize not to the worth,*
> *Whiles we enjoy it; but being lacked and lost,*
> *Why. then we rack the value ; then we find*
> *The virtue that possession would not show us*
> *Whiles it was ours."*

To the same effect as the Faizabad evidence, though of still stronger tendency, was that recorded in Unao by Mr. Maconachie. In this district there were, until annexation, hardly any considerable Taluqdars, nearly the whole of it being held by small zamindars, who were incessantly harried by the King's officers. Holdings and rents were constantly changing, and there was probably no part of

Oudh in which, during the later years, at any rate, of the Nawabi, oppression and disturbance were more habitually rife. Cultivators were perpetually absconding, and to keep them from doing so was the main object of the zamindar. A few extracts from the evidence seem sufficiently instructive to be worth quoting.

Subha, Brahman, lambardar of Nigohi, said:—"Since annexation, the land has become more valuable, and no one will give up the holdings which formerly we had great difficulty in inducing them to retain."

Gulab, Kachhi:—"I allow that he (the zamindar) had right to oust me in the Nawabi, but not now, the system being different. I mean, Government officials would not allow him to oust me. . . . I was always leaving the village; every two or three years I absconded, and was brought back."

Ram Singh, Brahman:—"I never heard of any cultivator's rights. Only those obtained anything who had assistance from friends in Lucknow. Without them, nothing could be obtained; with them, almost anything."

Raghbar Dyal, Kayath, karinda of Gulab Singh, zamindar :—"The land was not worth cultivators' fighting about in the Nawabi, and consequently no one cared much whether they lost or held."

Ramdin, Lodh:—"The only right a cultivator who built a well ever received was to pay a higher rent."

Ram Ghulam, Kayath.—"I never saw a cultivator who built a *pakka* well ousted. A zamindar would not do so, as he would be ashamed to oust a man who had expended money on the property. Of course, if right is inquired about, he had right, but he would consider it wrong to do so."

Debidin, Kayath, an ex-Kanungo:—"Right was never recognised. When zamindars were turned out, what chance had cultivators ?"

Chote, Barhai (*carpenter*):—"We were forcibly made to cultivate the land, and punished if we wished to give it up."

Mohan Lal, Brahman, speaking of another Brahman:—In the Nawabi no one cared about the land; now land is not to be got anyhow, and he wishes to retain the land he now holds as a means of livelihood. What is he to do, or where to go, if he loses the land he now holds ?"

Similar extracts might be quoted *ad libitum*, but these will probably suffice to convey a pretty distinct notion of the state of society to which they relate. Yet even here, the legend of the duty of Government to protect the cultivator was not wholly extinct, *e.g.* Thakur, Kachhi, said:—"My family have been fourteen generations in this village . . . . If I were ousted, I should complain. Had I been ousted in the Nawabi, I would have complained to the Wazir at Lucknow : I would plead that I had held for a long time, and had always paid what was demanded of me. My uncle once went to Delhi, and complained of increase of rent, and obtained an order letting him off. This was before I can remember, and before Oudh was a separate country." This statement being made in 1865, and Oudh having been a "separate country" since 1720, or, at latest, since 1739, it can hardly have been Thakur's uncle who went to Delhi, but this trifling inaccuracy does not impair the survival of the legend.* On the evidence before him, Mr. Maconachie naturally came to the conclusion that the cultivators of Unao had no rights which they could enforce, and that, under the circumstances, they could not reasonably have been expected to possess any such rights.

No record of evidence from the Lucknow district is to be found in the Blue Book, but the settlement officer, Mr. Copeland Capper, furnished a report on the subject, which has a least the merit of reducing the matter of the inquiry to fairly definite terms. He presumed that "rights" include all benefits or powers which (1) accrued from written law, and were or could have been enforced by the constituted courts or the administration of the former government; (2) those not dependent on written law, but recognised as customary by the local panchayats of the village or district, and enforced by them with the common consent of the people; or (3) such as, though unknown to the ruder organisation of the native government, would, on the introduction of our rule, from the analogy of European common law, give the holder a prescriptive title against his lord.

Of rights of the first two classes, Mr. Capper could find no trace. As for the third, or prescriptive rights, while admitting that such a title might arise, he concluded that "when one considers the condition of this district for many years prior to annexation, and the difficulty with which even proprietors and lords of manors maintained their rights, and that disorganisation arising from the prevalence of the law of might against right was, as we were informed at the annexation in 1856, the main reason for the introduction of British rule, I cannot but think that there will be very few cases in which a title cognisable under the analogy of common law will be shown." In short, the disintegration of society, in order to remedy which Oudh was annexed, rendered the existence of occupancy rights which could be enforced, an impossibility; and, if they had existed, they would have been, in the then state of society, of very trifling economical value. This, however, is a much better reason for than against the creation of such rights now.

---

*Perhaps the allusion may have been to the assumption of the kingly title by Ghazi-ud-din Haidar in 1819.

The Barabanki inquiry, made by Mr. H. B. Harington, was perhaps the most thoughtfully conducted, and his report, next to Mr. King's, the most valuable of any. "The right of the landlord to oust his tenant or to raise the rent was on all hands admitted to be absolute." But has he an equally uncontrolled power over the distribution of the produce ? "Are we to look to caprice, to competition, or to custom as determining the position of the cultivator and the adjustment of his rent ?" To these questions Mr. Harington answers that so far as his inquiries extended, he found custom exercising a very great influence, competition existing only to a very limited extent, and usage regulating in a remarkable degree the exercise of the landlord's power, both as to ousting tenants and adjusting rents. It was generally agreed that, of the gross produce of the soil, the landlord was entitled to receive from ordinary cultivators one half, and from privileged cultivators two-fifths; and on this principle were grain rents commuted to cash payments. In enhancing rent, the zamindar was supposed to be bound to conform to the usage of the country, and not to be at liberty to demand more than the cash equivalent of that portion of the produce which was really his due, *i. e.* two-fifths from the privileged or high-caste (*amnek*) cultivator, and one half from the unprivileged. There was further a general feeling that no cultivator but "a fool or a foe" would offer more than that equivalent. Hence Mr. Harington considered that competition was so limited by custom as to have, practically, no existence. He therefore held that the true parallel to the cultivating tenures of Oudh is, not the cottier system of Ireland, but the metayer system of Tuscany or Limousin. He recognised, however, likelihood of the metayer being transformed into the cottier system by the growth of competition, and being fully aware that "no greater evil can befall a state than a cottier system in which, as in Ireland, competition is only tempered by assassination," advocated the authoritative limitation of the rise of rents to the bounds imposed by custom. He thought the Taluqdars would, "without exception, subscribe to an agreement which would bind them to raise no rent, and evict no tenant, except in accordance with the usage of the province." That usage, he thought, might be easily defined. "It is true that the existence of the custom would seem to justify the introduction of the law," but if the good results of the law could be obtained without it, Mr. Harington thought it would be better to abstain from legislative interference.

A number of minor points were, of course, brought out in the course of this careful inquiry, but the most noteworthy were the following:—

(1) Such right of occupancy as existed resolved itself into the right of refusal of land at a higher rent if any *bona fide* higher offer were made by an outsider.

(2) An old tenant, or one who had improved his holding, would be allowed by any well-disposed landlord to retain his fields at a somewhat lower rent than the highest which an outsider would offer.

(3) Twenty years' possession constituted an old tenant (*qadim asami*).

(4) Landlords admitted that rents should not be raised unconditionally (*be hisab*), but only with reference to the rates paid for neighbouring fields or the quality of the soil.

(5) No low-caste cultivator would bid against an *amnek*, *i.e.* one receiving the allowance known as *kur* or *bhata*—which amounts to a deduction of one-sixth of the gross produce (or its cash equivalent where grain rent has been commuted to a money payment)—on account of wages of the ploughmen who do the work which custom forbids a high-caste man to do for himself.

To this it may be added that Kachhis and Muraos, who pay very much higher rents than any other class, will not bid against one another; nor will a man of either of those castes consent to cultivate land from which one of his fellow caste-men has been ejected.

It is doubtless true, as Mr. Harington asserts, that when rent is paid in kind, the proportion of the produce to which the landlord is entitled is strictly determined by custom, and that the share of the tenant is never supposed to be less than one half or, in some cases, than nineteen-fortieths of the gross out-turn. It is also true that high-caste cultivators are almost always, where grain rents prevail, allowed *kur* or *bhata*. The more favoured of these *amneks* pay, after deduction of *bhata*, one-third (*tikur*), one-fourth (*chaukur*), or sometimes only one-fifth (*pachkur*), of the gross produce as rent. Landlords, however, generally maintain a chronic struggle to increase this proportion to one-half, which, when *bhata* is allowed, is known as *adha bhata*, and without it, as *karr adha*. To this extent competition is certainly limited, and rents thus determined are rather metayer than cottier rents.

It *may* also be true that when grain rents are commuted to cash payments, the amount of the latter is calculated on the basis of equivalence to the proportion of produce previously paid, or, at least, that such proportion is sometime regarded as an element of the question. But it is very doubtful, indeed, whether in money rents of old standing any such reference to the actual produce can be traced, and the influence of custom in determining such rents is very much less marked. Rise of rents is due far less to competition of one cultivator against another, which is, indeed, somewhat rare, than to pressure applied by the landlord, enforced by the threat of eviction. The process is very simple. A landlord in want of money persuades himself that the cultivators of a given village will stand an extra turn of the screw without bolting. He demands, perhaps, an additional two annas in the rupee, or four annas per *bigha*. There is a long wrangle over the demand. Probably nine tenants out of ten finally agree to accept his terms, rather than abandon their homes and holdings. The recusants are served with notices of ejectment, and if this does not reduce them to what the landlord considers reason, they are probably ejected. If no other tenant will take up their fields at the enhanced rent, the landlord will bring them into his own cultivation, or *sir*. Here there has been a general rise of rents all round, but if the cause be competition at all, it is the competition of the landlord, as cultivator of his *sir*, against the tenants, not that of one tenant against another. Perhaps it would be more simple, without being less accurate, to say that the rise of rents is due to the landlord's "desire of wealth," which here, and in many other cases, as Mr. Cliffe Leslie has remarked, is not so much a productive as a predatory impulse.

The inquiry into tenant-right having been completed by the end of the cold season of 1864-65, Mr. Davies, on the 19th of June, submitted to the Chief Commissioner his report on the result. After reviewing the evidence from each district, he concluded that no prescriptive right on the part of cultivators pure and simple to retain their holdings against the will of the zamindar was to be found in Oudh, and that it was therefore impracticable, "at present," to register in the settlement records as occupancy tenants all who had been in possession for a certain number of years, as had been done in the N.W. Provinces at the settlement of 1822-1833. He held, however, that the inquiry established that the status of tenants in Oudh at annexation was the same as that of tenants in the N. W. Provinces in 1822. The records then framed were only intended to show the existing state of possession, and were liable to be altered by civil suit, while in Oudh no rights were recorded which had not been judicially decreed by the settlement officer acting as a civil court.

Turning to the economical side of the question, Mr. Davies took his stand on the doctrine of which Mr. Mill has been the leading English exponent, that rents paid by labourers raising their wages from the soil cannot safely be abandoned to competition. Hence he deduced an answer to Mr. Wingfield's favourite question, "Why allow competition for grain, and not for the rent of land paid by peasants?" His answer was, "Because competition for grain has no tendency to multiply the number of mouths to be fed; but by adjusting its price in proportion to the supply, rather puts people on their thrift; whereas competition for rack-rent leases by encouraging false confidence, by eventually lowering wages, and by minimising the prudential checks, has a direct tendency to stimulate the increase of population, and in course of time to lessen the fund for its support."

Mr. Davies "entertained no hope whatever of the improvement of agriculture in Oudh by the expenditure of capital on the part of large landholders. Similar outlay by the corresponding class in Europe has been rare and sparing; and the traditions, habits, and idiosyncracy of Oudh Taluqdars are not such as to render it probable that they will differ much in this respect from the Russian, French, and Hungarian nobles."

The fact is that a "good landlord" in Indian parlance does not mean an improver of his estate, but one who refrains from oppressing his tenants, is economical in his own habits, and keeps his accounts in good order.

If any interference on behalf of the cultivator should hereafter be needed, Mr. Davies was "decidedly of opinion that, apart from political engagements, Act X. of 1859 is as much adapted to the circumstances now existing in Oudh as it is to the North-Western Provinces. Its introduction would merely transmute customs into rights. . . . . I concur generally in the remarks occurring on this subject in Mr. King's report; and *if, at any future time, the condition of the cultivating classes should become such as to demand legislative interference, if it should be found that from the operation of causes familiar in their effects to modern science, the country is reduced to a worse state than that from which the British annexation was intended to rescue it, I conceive that the duty of dealing with such an emergency cannot be evaded by the Government.*"

In submitting all the papers to the Government of India, Mr. Wingfield expressed dissent, more or less modified, from nearly all Mr. Davies' conclusions, except the primary one, that no rights of occupancy against the will of the zamindar had been proved to exist. He maintained that competition had been shown to be already far from uncommon; that the fate of the ryots of south-eastern Oudh could not be considered hard if they were driven by pressure of population to Kheri and the trans-Ghaghra districts; and that, though cultivators may be protected against their landlords—"not that the Chief Commissioner means to imply that any such protection is needed"—they cannot be protected from the consequence of an increase in their numbers.

That competition was already not uncommon, was proof of the urgent necessity of fixing rents; not as Mr. Wingfield argued, that as custom had begun to give way to contract, the process should be allowed to continue unchecked, and no beneficial usages reduced to law. The fate of a cultivator driven from his ancestral village to a strange region where he will probably die of fever within five years is not exactly soft. And though no State can protect its subjects from the consequences of over-population, it can do something to check the too rapid growth of population by adopting institutions calculated to increase, and not to diminish, the force of prudential checks. That tenants enjoying security of tenure at a fixed rent are more likely to be prudent, than if they were subject to rack-renting and eviction, scarcely needs demonstration.

Mr. Davies had asserted that when rent was enhanced, it was generally raised in proportion to the capacity of the land. Mr. Wingfield thought it was "not easy to see on what other principle than the capabilities of the soil the rent could be raised." It never seemed to occur to him that the helplessness of the cultivator may be such a principle, and that it is only capitalist rents that are determined by the capacity of the soil. At any rate, he declined to "enter into speculations in the field of political economy," and contented himself with saying that he did not "share the apprehension of the Financial Commissioner," and thought the ryots were "perfectly well aware of their own interests." On the political question Mr. Wingfield, of course, held that tenant-right being proved not to exist, the *sannads* were a bar to its creation. How truly was it said by one of old, "Where there is no *vision* the people perish !"

The local authorities having thus said their say, the running was taken up by Mr. (soon to become Sir William) Muir, who was then Secretary to the Government of India, in a very able "Memorandum on the Investigation into Tenant Rights in Oudh," dated the 20th of October 1865. To this memorandum were added three appendices, on (1) the existing law and practice of Oudh courts in regard to cultivating tenures; (2) the result of the local inquiry into rights of non-proprietary cultivators; and (3) tenant-right in the N. W. Provinces and other parts of India. These appendices were intended by Mr. Muir to be read before the memorandum. The summary of the first appendix may be stated in his own words :—

"The right of occupancy at a fair rent, *i. e.* the prevailing or customary rent of the neighbourhood, was early recognised and inculcated in our administration of the province, as inherent in ryots generally, and specially so if they had long cultivated the land; the principle has been (with some occasional expressions in the abstract reserving the right of ousting tenants-at-will) consistenly reiterated from time to time, and it now forms the rule of the district courts which have the jurisdiction in this class of cases." A perusal of the circular orders issued on this subject by the Chief Commissioner clearly shows that, after directing, in April 1859, that wherever under-proprietary rights were "doubtful, the doubt should be given in favour of the Taluqdar," he proceeded to lay down that, except in the case of cultivators who paid a beneficially low rent in consequence of prescriptive right, and not by mere favour or caste privilege, there was "nothing to prevent the Taluqdar from now raising the rents to the fair rate of the pargana." But in May of the same year these latter orders were modified by a second circular directing that in the case of cultivators holding the beneficial rates by virtue of caste, "the Taluqdars will not be considered authorised to raise the rents during this settlement, without the full consent of the tenants, if they have held at such reduced rates for at least twenty years." Only under-proprietary cultivators were to be deemed entitled to hold at fixed rates, all others being "simply *kashtkars* or a*samis,* whose rents may be raised to fair rates, and among whom there is no distinction of *qadim* (ancient) and *jadid* (modern) . . . . The Chief Commissioner, however, must not be misunderstood to authorise the Taluqdars to raise their rents beyond the fair rates of the country, merely because, at them, their incomes are not double the Government *jama*" (revenue demand). This obviously implies, and in subsequent orders it was expressly declared, that any cultivator, not holding merely under a terminable lease, was entitled to contest in the revenue courts any claim to enhancement which he considered unfair, and to abtain a lease at rates which he might call upon those courts to fix.

Mr. Wingfield afterwards stated, in his review of the tenant-right inquiry, that the above orders were needful to protect under-proprietary tenants from injustice, until the record of rights was completed. But it is obvious that such a precaution was, according to Mr. Wingfield's own doctrine, only needed where the tenant claimed under-proprietary right, and could have no justification where he professed to be a mere cultivator. And a perusal of the circulars themselves is quite enough to show that they were "framed independently on their own merits, and with no reference anywhere expressed to the temporary necessity noticed by Mr. Wingfield," who had himself admitted that it was not till March 1864 that he had come to the conclusion that occupancy rights had no existence in Oudh. It was clear that the belief was general among ryots, and after these rulings, indeed, it could hardly have been otherwise, that it was the intention of Government to afford them the same protection and security as it had afforded to their brethren in the N.W. Provinces. And it was equally clear that they hailed the boon with delight. While, on the other hand, "Taluqdars and other landlords must have received the successive rulings detailed above as indicative of a settled course of administrative action in favour of the right of occupancy. It was probably viewed as part of the system enunciated, by Lord Canning in conferring their property upon them, viz. that 'the right was conceded subject to any measures which the Government may think proper to take for the purpose of protecting the inferior zamindars and *village occupants* from extortion.' And the only objection which seems to have occurred to any of them was the inapplicability of the principle to holdings of which the rent was paid in kind." This objection, which was perfectly reasonable, merely amounted to this, that a tenant should not be allowed to retain more land than he had means of cultivating, so long as his rent was payable in kind; and under a circular order of September 1863, the tenant had only to agree to pay a fair money rent in order to resist ejectment from any portion of his holding, whether imperfectly tilled or not. With this exception, no Taluqdar or zamindar had uttered a word of complaint against what, according to the contention of Mr. Wingfield and his school, was so flagrant a violation of the pledges of Government as the recognition and enforcement, extending over a period of nearly seven years, of occupancy rights on the part of cultivators pure and simple.

Turning to Appendix II., it is not necessary to follow Mr. Muir into his digest of the evidence recorded by settlement officers. Let the quotation of one passage, of the nature of a general comment suffice:—

"The degree in which the cultivator is attached to the soil appears to vary in different parts of the province. In the centre, exposed in its full force to the misrule and tyranny of the Lucknow Court, there was constant change even among the proprietary classes, and a corresponding absence of fixity in the tenure of the cultivators. . . . . In districts at a distance from the heart of this disorder, greater permanence and security prevailed among the landholders, and. . . . also among the cultivating ranks. . . . . In the central and more disorganised parts, we find rent often settled by the field in a manner approaching competition; while in more remote and settled quarters rent is adjusted by uniform and customary rates, and by them competition, wherever traceable, is in practice limited."

The third appendix consists of a masterly and most valuable sketch of tenant-right in southern India, Bengal and the N. W. Provinces. Speaking broadly, Mr. Muir thought that, "on our accession to the empire, ryot proprietorship prevailed in the south of India, official zamindarship in Bengal, and village proprietorship in the North-Western Provinces". With regard to the first, his conclusion was that "throughout India, excepting the Gangetic valley and adjoining tracts . . . . there exists the general law of ryot right. With few exceptions, no proprietary title intervenes between the Sovereign and the cultivator. The individual occupant, as a rule, is either proprietor or permanent holder. The exactions of the State may often have reduced the title to a mere shadow, but the moment tyranny and oppression are withdrawn, the occupancy resumes its substantial character, tending to acquire more or less of a beneficial interest. Such is the tenure which in every quarter exists, or which springs up naturally in the soil." In Bengal also, ryot right existed, and was not "displaced or materially weakened" by the official zamindarship which we made the mistake of transforming into actual proprietorship; and it still survives, though in a sadly dilapidated condition, owing to the neglect of proper precautions for its protection.

But as our rule advanced up the valley of the Ganges, through Bahar into the North-West Provinces, our officers began to come in contact with real zamindars, village proprietors, and, occasionally, feudal chiefs. Here the zamindar was no mere middleman or tax-collector, but *owner of the soil.* This may have been due to the martial character of the landholders, who seem to have been originally a conquering class. From this, coupled with evidence of a converse state of things in the Dakkhan and Bengal, may be deduced the inference that "ryot-right is in the inverse ratio of village proprietorship." In Banaras the two systems meet each other—the strong proprietary and weak tenant-right of the North-West, and the weak proprietary and strong tenant-right of Bengal—and this may account for tenant-right being weaker in the north and west of Oudh than in the south and east. Judging from the inquiry of 1818, it would seem that occupancy tenures in the N. W. Provinces, when they came under British rule, were on much the same footing as in Oudh at annexation, the present difference between them being mainly due to the fostering influence of the Bengal system, or rather theory, which in the N.W. Provinces was, to a certain extent, reduced to practice.

After this glance at the appendices, let us turn back to the memorandum of which they form the bases. It begins by remarking that the right of cultivating occupancy had been steadily supported by the Oudh Administration from 1856 up to date, and on even a wider footing, embracing tenants of all classes, after reoccupation than before the Mutiny. So thoroughly was this recognised, that even where summary eviction would, under the ordinary law, be justifiable, landlords applied to the courts, as a matter of course, for leave to evict For instance, Rana Shankar Baksh, the well-known feudal chief of Khajurganw in Rai Bareli, having sued out execution against a defaulting tenant in his own court as an Honorary Assistant Commissioner, was reported by Mr. Wingfield to have applied to the Collector of this district "stating that as defaulter was imprisoned by order of Government for arrears of rent, his land was lying uncultivated, and there was no one in his family to take his place; he therefore prayed that arrangements might be made with another cultivator."

There could hardly be stronger evidence than this of the extent to which the doctrine of Mr. Wingfield's circulars protecting tenant occupancy had found acceptance in the most unlikely quarters. Nowhere had a whisper been heard from any landlord, small or great, that the *sannads* were infringed by this policy. Indeed, had the tenant-right inquiry not been made when it was, occupancy rights must, under the existing rules and practice of the revenue courts, have acquired such prescriptive strength that they could not have been uprooted. The evidence of the ryots showed that the more enlightened among them regarded themselves as being now emancipated and secure, while the more ignorant seemed unable to understand what constitutes a right until it was taken from them. The spirit of the settlement rules in force in Oudh was to regard nothing as a right which did not fulfil all the tests of a complete proprietary title. "If a right be not divisible on succession by inheritance, if it be not transferable, if it do not possess a money value, if it could not have been successfully defended under native rule by litigation or arbitration, it is immediately concluded that there can be nothing left to look at or examine; whereas it is evident from a survey of agrestic (*sic*) affairs in other parts of India, that customary rights exist, and are recognised, although they constitute only an imperfect and partial interest."

After a parenthetic comment on the injustice of Mr. Wingfield's order that, where the evidence regarding a claim to under-proprietary right was doubtful, "the doubt should be given in favour of the Taluqdar," Mr. Muir went on to sketch, much as Mr. King had done, the attitude of the native Government towards the cultivator. That it had duties to perform towards tenants was recognised by the wording of the *sannads* by which the Mughal emperors appointed officers to serve in Oudh:—"He is to conduct his duties with truth and mercy, to comfort the ryots, to be careful that none of the Amils should take more than half the produce, that the ryots may not suffer. . . . . If the Amils have collected any forbidden cesses, he is to restore the amount to the villagers in the Amil's presence." The design, indeed, was allowed to fall into desuetude. As one of the old *ziladars* (collectors) of the King of Oudh's Government told Mr. Maconachie, "no complaint of increased rent or ouster was ever listened to; the zamindar would at once have pleaded that, unless allowed to manage his village as he pleased, he could not pay the rent demanded of him by the Chakladar; and *that would have been sufficient.*" But the right to interfere, though dormant, was "perpetuated in the stereotyped engagements entered into by the landholders; and on any thorough reform of the native administration, no doubt the well-known form of words would have been turned into a reality, if anywhere the cultivators were found to have become the subjects of oppression."

Some officers had argued that though, outside taluqas, we were entitled to declare any occupancy rights that might be deemed expedient, yet the *sannads* were a bar to the recognition of any such rights in the estates which they covered. Mr. Muir, on the contrary, thought that if there were any restriction at all on our competence to declare occupancy rights, it would exist, not so much in taluqas, as in ordinary zamindaris, held by prescription without *sannad*. For the proprietary right is equally full and complete in both cases, while Taluqdars are expressly bound, which zamindars are not, to "promote, so far as in their power, the agricultural prosperity of their estates." Such prosperity in a country "where large farming is unknown" is incompatible with the oppression or over-taxation of the cultivators." "Agricultural prosperity, and a prosperous and justly taxed peasantry, are in India convertible terms. A distressed and straitened tenantry is synonymous with agricultural depression. And it cannot be questioned that the Taluqdars, as well as the Government, understood the condition in this sense." This being so, Mr. Muir thought there could be no doubt that any measure for protecting the cultivator which might fitly be introduced in zamindaris might with at least equal fitness be applied to taluqas.

The immediate question for decision was whether the protection actually enjoyed by the cultivator, under the existing orders and practice, was to be wholly or partly withdrawn. Mr. Wingfield advocated its entire withdrawal; Mr. Davies recommended the introduction of Act X. of 1859. Mr. Muir did not concur in either proposal, but suggested that all cultivators who had held land on an estate for twenty years, "and in whose family cultivating occupancy may have descended at the least to a second generation," should be held entitled to be maintained in possession at the rent rates prevailing in the neighbourhood. Ordinary ryots, however, should still find the courts open to them if their possession was interfered with, and their claims should be decided according to local custom, which would also regulate claims based on implied contracts growing out of custom, such as claims to compensation for improvements. From decisions in such suits, a code of precedents would in time spring up.

To those who believe that security of tenure at a fixed rent should be regarded as a necessity for all cultivators, not the privilege of a favoured few, this cannot but seem a somewhat disappointing conclusion; for Mr. Muir's premises appear to justify far more thorough measures than these.

We must now turn from the question of occupancy rights of cultivators to that of under-proprietary rights in general, and subsettlement in particular. There is no formal connection between the two, but the logic of events requires that they should be treated concurrently. It will be remembered that Mr. Wingfield's "record of rights" circular had barred from hearing all claims to under-proprietary rights in taluqas except such as were enjoyed in 1855, and that in September 1864 the Taluqdars agreed to the extension of the period of limitation for such claims to twelve years from the date of annexation, *i. e.* to the 13th of February 1844, subject to the stipulation that the claimants of such rights should not be decreed anything more than the most favourable terms which they had enjoyed in any one year since the incorporation of their lands in the taluqa. The question soon arose whether, if the under-proprietors had held the lease of the whole village from the Taluqdar at any time during the twelve-years period of limitation, they were now entitled to be decreed a sub-settlement of the whole village, *i. e.* a lease at a rent amounting to the Government demand on the village, *plus* a certain proportion of the assumed profits, fixed for the term of settlement, and payable to the Taluqdar. It might seem, indeed, that the matter was not open to doubt,—that the right of engaging for the village having been kept alive by exercise within the period of limitation, must, as a matter of course, have been decreed. And this was the principle adopted by Mr. Davies in what is known as the Morarkhera case, decided on the 26th of November 1864.

This was an appeal from the order of Mr. Currie as Settlement Commissioner, rejecting the claim of Daljit Singh and others to the subsettlement of the village of Morarkhera, in the estate of Mahesh Baksh Singh, a Taluqdar of the Rai Bareli district. The court of first instance found that the claimants were the hereditary zamindars of the village, had held leases from the Taluqdar within the period of limitation, and had engaged direct with the Chakladar when the village was held *kham*. But it dismissed their claim to subsettlement on the ground that they had not held at a fixed rent. The Settlement Commissioner upheld this decision, on the ground that "there was not even a terminable lease allowed to run on without renewal, for a regular lease was not given until one crop had been cut, and the prospects of the next ascertained." Mr. Davies, however, upset these decisions, holding that "the main point, namely, that the appellants are the hereditary zamindars, being fully established, it follows that if they have held a lease of any sort within the term of limitation, they are entitled to subsettlement under the British Administration. For it was of such a tenure that the Government of India. in their letter dated the 19th of October 1859, observed that 'it is not a new creation, and is a tenure which, in the opinion of the Governor-General, must be maintained,' and that 'the only effectual protection which the Government can extend to inferior holders is to define and record their rights, and to limit the demand of the Taluqdar as against such persons, during the currency of the settlement, to the amount fixed by the Government as the basis of its own demand.' Wherever the zamindari right is clearly established, and the fact of the zamindar's having held a lease under the Taluqdar within the period of limitation, the Financial

Commissioner considers that he is bound, not merely by the common law and usage of the country, but also by the terms of the letter above quoted, to admit the claim to a subsettlement."

To an unsophisticated mind, this doctrine seems unimpeachable enough, but it was objected to by the Taluqdars, who, to a certain extent, succeeded in converting Mr. Davies himself to their views. One of the stipulations on which they had agreed to the extension of the period of limitation for under-proprietary claims to twelve years has already been mentioned. But there was another, or rather, two others, viz. that only such subordinate interests should be recorded as were held of right, and not by favour or for service, and that *temporary leases be not confounded with under-tenancies carrying a complete right of property.* This latter sentence is the important one for our present purpose. The leases held from Taluqdars by under-proprietors during the Nawabi were almost always "temporary," often for one year only, and Mr. Davies, though holding that "a *pakka* lease held by under-proprietors does constitute a tenancy carrying a complete right of property," and that the holder of such a lease during the Nawabi for a single year, would be entitled, political restrictions apart, to a subsettlement, yet thought it highly probable that by the italicised stipulation the Taluqdars intended to protect themselves against this construction, and were therefore entitled under the agreement to resist its application, except as regards such leases as were in force in 1855.

Mr. Davies "confessed that he had hitherto construed the word 'temporary' as the converse of *pakka*." Now almost as many volumes might be written on the meanings of, and the distinctions between, the words *pakka* or *pukhta,* and *kachchha* or *kham,* as concerning the terms "objective" and "subjective." Let it suffice, however, to state here the definition given by Captain Macandrew, which was adopted by Mr. Davies, and has since met with general acceptance. According to this definition, a village is said to be *pakka* when the zamindar (or the lessee) is entitled to the profit, or liable to the loss, that may accrue according as the collections exceed or fall short of the sum which he has bound himself to pay as the rental for the year. It is said to be *kham* when there is no such title to profit or liability to loss, the rents being collected directly by the landlord or his agents, and no account of collections being rendered to a zamindar or lessee. A village may be *pakka* even if the person who has engaged for it at a fixed sum be put out of rent-collecting possession altogether, as is the case where a third party, commonly called a *jamoghdar*, is put in to make the collections, or even when the landlord makes them himself, so long as this is done with the consent of the zamindar or lessee, and an account of the collections rendered to him. The point upon which the distinction turns is the existence or non-existence of the right to profit and the correlative liability to loss on the part of the person who has engaged for the lease, whether he be an under-proprietor (*zamindar* or *qabiz darmiyani*), or a mere farmer (*thekadar* or *mustajir*).

Bearing this analysis in mind, it is not easy to understand how Mr. Davies can have "construed the word 'temporary' as the converse of *pakka*." There is only one possible converse to *pakka* as above defined, and that is *kachchha*, and it is of course clear that a *pakka* lease may be, and in ninety-nine cases out of a hundred actually was, 'temporary.' Every lease, indeed, so long as it lasts, is *pakka*, and only ceases to be so on being cancelled. Such a thing as a *kachchha* lease is a contradiction in terms. But whatever the process by which Mr. Davies arrived at the distinction, the principle by which he had been guided was, in his own words, that "though the mere holding of a temporary lease was not sufficient proof of intermediate proprietorship, yet that if this main point of zamindari tenure was clearly proved, the holding of a temporary lease under the Taluqdar within the twelve years *would* qualify an under-proprietor for a decree of subsettlement, but would not so qualify a mere *thekadar*, or farmer, without any under-proprietary right." He still held that, "as a matter of law, settlement officers were bound to decree subsettlements wherever persons proved to be under-proprietors could show that they had a village *pakka* from the Taluqdar during the period of limitation. But as the question was complicated by the conditions under which the Taluqdars had agreed to the extension of the period of limitation, he requested, in his letter to the Chief Commissioner dated the 10th of June 1865, that his 'views should be authoritatively affirmed or corrected.'" Mr. Wingfield's opinion was that "there was a well-marked distinction between the right to subsettlement founded on usage and prescription, and claims based on mere temporary casual leases"; and that, "some continuance of possession, not by any means necessarily uninterrupted, of a *bona fide* lease, giving the management of the village lands, is necessary to establish the *pukhtadari* right (*i.e.* the right to hold *pakka*), and a title to a subsettlement." He also felt himself in a position to state, "as the interpreter of the sentiments of the Taluqdars," that their object in making the stipulation against the temporary leases with "under-tenancies conveying a complete right of property" *was* to protect themselves against claims to subsettlement of the kind which Mr. Davies thought himself legally bound to decree.

In reply to this letter, the Financial Commissioner took up a more decided position, and, though regretting that the ambiguous stipulation aforesaid had been made, as susceptible of misconstruction, thought that he had in his letter of the 10th of June attached undue weight to it, and that its terms were not infringed by a subsettlement, if the under-proprietors had contracted for the revenue for any one year during the period of limitation.

Apart from the legal effect of this questionable stipulation, the point in issue between Mr. Wingfield and Mr. Davies was briefly this—Had zamindars whose villages had been incorporated in a taluqa a right to engage for the revenue of them under native rule ?

Mr. Davies maintained the affirmative. According to Mr. Wingfield, they sometimes had the right, and sometimes not, according to the circumstances under which the incorporation of the village with the taluqa took place.

Captain Macandrew maintained the still more extreme view that the zamindars of a village included in a taluqa had *no* right to engage for the revenue of it, and that their *sir* and *nankar* lands were the measure of their rights. This position, however, seems sufficiently disposed of by Mr. Carnegy, whose opinion here, as in the case of occupancy rights, coincided with that of the Chief Commissioner. "In this class of unpurchased tenures," he wrote, "it was very far from the impression of the former proprietors that it was a matter contingent solely on the will and pleasure of the Taluqdar to hold *pakka* or *kham* at his option; on the contrary, they believed that in all justice they had the most undeniable right themselves to hold *pakka* under the Taluqdar, to the extent, and I know many instances in which the right was exercised, that they could even withdraw their village altogether from a taluqa, and themselves engage for it direct with Government, or include it in the rent-roll, on similar terms, of some other estate. In such cases as these, how is it possible to say that the rights of the sub-proprietors under the native rule amounted to no more than the profits of their *sir* and *nankar*? and on what principle of justice could we now confine their sub-proprietary interests to these perquisites alone?"

Apart from the ambiguous proviso by which the Taluqdars had guarded themselves, and which had been accepted by the Governor-General, apparently without a clear apprehension of the use which might be made of it, there would seem to be little doubt that Mr. Davies was correct in his contention that proprietors of land had an inherent right to engage for the revenue of that land, which was not abrogated merely by its incorporation in a taluqa. If they parted with their proprietary right to a Taluqdar by *bona fide* sale, then of course the right to engage for the revenue was transferred from them to him. Or if their proprietary right had been forcibly effaced beyond the period of limitation, it could not be recognised by our courts, and the right to engage perished with it. But fraudulent and fictitious sale deeds, such as were many of the *bainamas* produced in the settlement courts, should have been treated as worthless; and where a village was voluntarily, and without even any pretence of purchase, put into a taluqa for the sake of the Taluqdar's protection, justice, of course, demanded that when the protection ceased, the village proprietors should be released from a connection which they wished to put an end to, and which, owing to altered circumstances, was no longer in any way advantageous to them. *Cessante causa cessat at effectus.* This course, however, being barred by the *sannads*, the next best thing would have been to give the zamindars a subsettlement under the Taluqdar, allowing the latter a small percentage on the revenue as malikana, whether the right of engaging had been exercised by the proprietors during the period of limitation or not. This course, again, was limited by the proviso on which the Taluqdars had consented to the extension of the period of limitation, viz. that under-proprietors should not be decreed anything more than the best terms they had actually enjoyed in any year since the incorporation of their village in the taluqa, and within the period of limitation. All under-proprietors who had not held *pakka* within that period were thus debarred from a subsettlement. But in the case of those who had held *pakka*, even for a single year, the right was kept alive, and should have been decreed. It was at this stage of the eliminative process that the stipulation regarding temporary leases came into play, and that the dispute as to its meaning became important.

It is much to be regretted that the Taluqdars were ever asked for their assent to the extension of the period of limitation, and that any stipulations at all on the subject were allowed. For their assent was wholly unnecessary. Our pledges to them provided that "whatever holders of subordinate rights might be under them should be preserved in their former right," and there was no limitation of these rights to those actually exercised in 1855. Mr. Wingfield, indeed, had attempted so to limit them in his "Record of Rights" Circular, but that was a mere instruction to settlement officers, having no legal force, and containing no pledge or promise to anybody. It was therefore perfectly open to the Government of India and was indeed its bounden duty, to prescribe a proper and reasonable period of limitation for the assertion of subordinate rights, and the Taluqdars should not have been allowed, nor, had they not been given false notions of their own importance and position, is it in the least probable that they would have claimed, any voice whatever in the matter. About the right of under-proprietors to engage for the revenue of their lands, there seems, apart from the complications with which it was injudiciously hampered, to be no reasonable doubt. "The truth is," as Mr. Davies puts it, that "there was neither settlement nor subsettlement in the Nawabi. As proprietor, a zamindar had a right to contract for the revenue of his village, but he might decline without loss of proprietorship. In the Nawabi the contract was not sought after, now it is. We cannot deprive a proprietor of the right of contracting for the revenue without breach of the conditions of the *sannads*. This privilege is inherent in the proprietorship of land in India. The Taluqdar has now obtained the right to pay to Government the revenue of all villages in his taluqa; but as the rights of the under-proprietors are reserved, that which they formerly enjoyed, of contracting for the revenue of their own villages, remains to them."

Rights, in short, do not cease to be rights because in certain states of society their assertion is not always profitable. Land may have been worthless until the construction of a railway in its neighbourhood turns it into a valuable property. But the right of the owner before the construction of the railway only differs from his right after it has been constructed in being more valuable.

During the Nawabi, villages were usually included in taluqas either by purchase, with which, when *bona fide*, we have here no concern; or by violence and against the will of the village proprietors, in which case the incorporation was simple robbery; or with the consent of the village proprietors, yielded for the sake of the protection against Government officials and other landholders which the Taluqdar was able to afford. In this latter case the incorporation was intended to be temporary, and terminable at the will of either party, and it was, in fact, based on a fair, give-and-take, bilateral contract, in which protection and assistance on one side were exchanged for submission and services, and generally a money payment, on the other. The arrangement when voluntarily entered into by both parties, though necessitated by a vicious and disorganised state of society, was not, in itself, morally objectionable. But the Government of India, by confirming in perpetuity to Taluqdars the superior right in all villages for which they happened to have been permitted to engage at the second summary settlement, turned a bilateral into a unilateral contract. The protection afforded by the Taluqdar was the correlative of the services and payments which he received from the village proprietors, and when that protection ceased to be afforded, the payments, as well as the services, should also have been discontinued. The duty, however, of the Taluqdar to afford protection seems to have been altogether ignored, and was rendered unnecessary and impossible by the introduction of a settled system of Government, while the dependence and payments on the part of the village proprietors were continued and enforced.

In most taluqas there is a considerable proportion of villages of which the Taluqdar was, during the Nawabi, the real and sole proprietor, and that in these he was rightly maintained as such, no one disputes. But in very many of the villages in which subsettlements were claimed, the Taluqdar's tenure under native rule had been, at best, that of a mere farmer, and was, not unfrequently, something very much worse. This farming, or other still less respectable tenure, was by our policy and proclamations converted into a superior proprietorship, and all, therefore, that could be awarded to the zamindars was an under-proprietary right. The fact that we had put it out of our power to do them complete justice was surely an additional reason, if any were needed, for doing them such justice as we could.

It is but fair, however, to note that no less an authority than Sir William Muir agreed with Mr. Wingfield in thinking that the fact of under-proprietors having held *pakka* from the Taluqdar within the period of limitation was not in itself enough to entitle them to a subsettlement of any other lands than those in their own cultivating possession as *sir* or *nankar*. To obtain the subsettlement of a whole village, he thought it was necessary that they should show that "the title has been kept alive over the whole area claimed, within the term of limitation." Such evidence was to be found in the exercise of such incidents of proprietorship as management of the cultivating arrangements, breakage of waste, control over the jungle, and enjoyment of manorial dues and perquisites. Mr. Muir also suggested that under-proprietary villages in which the right to subsettlement was proved might be divided into three classes, and the Taluqdar's share in the profits adjusted accordingly. In the first class of such villages, where the Taluqdar had hardly interfered at all, and the lease had been held continuously by the zamindars, he proposed that the *malikana* allowance should be fixed at 5 per cent. on the revenue; in the second class, where the zamindars were occasionally excluded, at 15 per cent; in the third, where they were frequently excluded, and their interest in the property weakened by this or other causes, at 25 per cent.

The tenant and under-proprietary right questions having been thus exhaustingly, if not exhaustively, discussed in minutes and memoranda, were next to pass through a phase of demi-official correspondence between Sir John Lawrence and Mr. Wingfield, conducted through the medium of Mr. Grey. The Governor-General desired to secure some degree of fixity of tenure to all cultivators of old standing, but his sympathies were more especially enlisted on behalf of ex-proprietors or their descendants, whose proprietary rights had been obliterated, but who remained in possession, as tenants, of the fields of which they had formerly been owners. This class, he thought, and, no doubt, rightly thought, had a stronger claim to protection than the mass of cultivators whose condition was not embittered by memories of ancient ownership. The object which he insisted on was that such cultivators should be "recognised and recorded as possessing a right of occupancy in their hereditary fields, and entitled to hold at the most favourable rates of rent prevailing among other classes of cultivators in the vicinity," whether they were forcibly dispossessed of their former proprietary right, or voluntarily parted with it, unless, in the latter case, it was stipulated or implied, as a part of the transaction, that their right to retain their cultivating holdings was annihilated. If the Taluqdars would assent to this, the question of tenant-right, "so far as the late proceedings and the present settlement are concerned," was to be considered closed. Sir John Lawrence, however, had extremely exaggerated notions of the proportion of Oudh tenantry whom such a measure would protect. He thought that it would "not, probably, be found to comprise more than 15 or 20 per cent of the whole number of cultivators." Two per cent would probablv be an excessive estimate. These views were conveyed by Mr. Grey to the Chief Commissioner. The latter wished to see the question finally disposed of by the simple expedient of cancelling all circulars or orders which in any way recognised a right of preferential or any other occupancy on the part of non-proprietary cultivators, and confining the jurisdiction of the revenue (rent) courts to suits brought by such tenants for breach of contract by the landlord, or for ouster in the middle of the agricultural year. The admission of even such suits as these to a hearing was, of course, to confer upon the ryot a right which he had no power, during the later years, at any rate, of the Nawabi, to enforce, and might therefore, on Mr. Wingfield's principles, have been deemed an infringement of the *sannads* as he interpreted them. Practice is, happily, sometimes more benevolent than theory. Mr. Wingfield, however, agreed to waive his own ideal solution of the difficulty so far as to consent to propose to the Taluqdars to concede a right of occupancy, at a rent less by two annas in the rupee than that of ordinary cultivators, to ex-proprietary tenants or their descendants. But he was only prepared to do this on the following conditions:—

(1) That the Taluqdars might be assured that no other occupancy rights "arising from prescription and not from special contract," should be recognised, and that the proposed arrangement, if carried out, should be "held to dispose finally of the tenant question in Oudh";

(2) That the protected class should include only ex-proprietors who had been forcibly dispossessed, or their descendants, and not those who had "alienated their rights";

(3) That each case was to be decided on its merits, "after judicial inquiry," by a European officer.

The Governor-General would not agree to any promises which might seem in any way to waive the right of Government to interfere for the protection of oppressed cultivators, which would, he considered, be a breach of the conditions under which Lord Canning granted the *sannads*. And in this particular, both Mr. Grey and Mr. Wingfield practically agreed with him. They differed, indeed, in thinking that the right to interfere should not be expressly reserved, on the ground that such express reservation would be likely to "make the Taluqdars suspicious," but their language as to the existence of the right leaves nothing to be desired.

"Inasmuch," wrote Mr. Grey, "as the *sannads* clearly stipulate for a proper and considerate treatment of their ryots by the Taluqdars, nothing that may be said now could be held to prevent the interference by Government at a future time, by legislation or otherwise, if the relations between the ryots and their landlords should at any time become so unsatisfactory as to demand the intervention of Government. This is so obvious that, perhaps, it may not be thought necessary to express such a reservation."

Similarly, Mr. Wingfield :—

"The condition in the *sannads*, that the Taluqdars shall promote the agricultural prosperity of their estates, would alone furnish the Government with warrant for stepping in to prevent oppression of the cultivators, for they cannot be oppressed without agricultural deterioration. But interference would be justified on the broad grounds of good government. The Taluqdars will see this clear enough."

In other words, all that it was proposed to abandon was the intention of according fixity of tenure to non-proprietary cultivators on the ground of any *right*, prescriptive or otherwise, on their part. The competence of Government to confer fixity of tenure on every cultivator in Oudh, if it should ever become, or be perceived to be, necessary, as a matter of public policy, to do so, could be in no way affected by any engagements which had been, or which might be, made with the Taluqdars. Of course no such engagement ever was made, and had it been made, it would have been invalid, for the simple reason that no Government can bind its successors, or itself, by promises to any class of its subjects, not to do what may at any time be found requisite for the welfare of the nation as a whole.

To Mr. Wingfield's proposals, including the cancellation of the existing revenue circulars regarding occupancy and rents rates, the Governor-General assented, but insisted that all ex-proprietors should be protected who had retained possession of the fields they formerly owned in their ancestral villages, in whatever way they might have parted with or been deprived of their proprietary rights.

To these conditions Mr. Wingfield endeavoured to induce the Taluqdars to agree. He reduced the Governor-General's terms to writing, and made them over to the two Maharajas, Sir Man Singh of Mahdona, and Sir Dirgbigai Singh of Balrampur, for communication to all other Taluqdars then in Lucknow. This was on the 10th of March 1866, and on the 14th *id.*, some fifty of the leading Taluqdars waited on Mr. Wingfield, with their written reply. This was, in substance, a flat refusal to accept the terms proposed. It seems scarcely possible that they can have understood what those terms really were, for "we look in vain," they said, "to see what compensation we are to get in lieu of the perpetual loss, year by year, of *one-eighth part of our recognised and customary income.*" They can hardly have supposed that what the Governor-General desired was a general reduction of rents all round by two annas in the rupee. Yet the words underlined seem incapable of bearing any other construction. What Sir John Lawrence supposed himself to be seeking was a reduction by that amount, or one-eighth, of the rents payable by, at the most, 20 per cent. of the cultivating body, which would have lowered the income of the Taluqdars not by one-eighth, but by one-fortieth. And they most have been aware that the proportion of tenants whom the proposed arrangement would protect certainly did not amount to 5 per cent of the whole. Either, therefore, they wholly misunderstood the terms offered to them, or else they multiplied by at least twenty the effect it would have had upon their incomes. If, they continued, Mr. Wingfield, who was on the point of retiring from the service, would stay six months longer in Oudh, then, indeed, they "might do something." But as it was, they had "now no expectation of gaining any advantage in this matter." At a final discussion on the 15th of March, they declined to "give up one cowry on plea of proprietorship." Thus this attempt at a compromise ended in failure.

Mr. Wingfield gave over charge of his office to Mr. Strachey a day or two afterwards. From Cawnpore, on the 19th of March, he wrote his report of the breakdown of the negotiations, and with a Parthian arrow fired from Karachi in the shape of a memorandum dated the 22nd of April, finally disappeared from the stage of Oudh politics, which he had dominated so completely for nearly seven years, and where he cannot be denied the merit of having left an enduring mark. He had espoused the interests, real or supposed, of a small but influential class with a fervour which, though doubtless sincere, blinded him in a great measure to the rights and the welfare of the great mass of the agricultural population, the high-caste yeomanry and the low-caste cultivators. He had endeavoured, not altogether without success, to commit the Government of India to declarations which should render it impossible hereafter to modify his policy without incurring the charge of breach of faith; and had fostered on the part of the Taluqdars a sense of their own importance and of the magnitude of their claims which has become a serious obstacle to anything like even-handed revenue legislation for the province. It would, however, be absurd to deny that he conducted the affairs of his clients, the territorial aristocracy of Oudh, with great ability and unfailing energy and persistence, and that by his singular mastery of details, combined with argumentative power, he practically gained his object of establishing their ascendancy in the teeth of the prepossessions of the Governor-General and of a majority of the Council

In a "Note on Tenant-Right in Oudh," dated the 14th of May 1866, the new Chief Commissioner, Mr. Strachey, recommended that Government should accept the result of the late inquiry, and declare that there were no rights of occupancy which could be maintained against the will of the landlord; that all orders recognising any such right should be cancelled; that no further inquiry into other than proprietary rights should be made by settlement officers; that claims to an occupancy right by non-proprietary cultivators should be heard only in the civil courts; that "the jurisdiction of the summary suit courts in respect of suits brought by tenants-at-will should be confined to complaints of illegal distraint, breach of contract, exaction, or ouster in the middle of the agricultural year"; that previous rules should be revised so as to be brought into conformity with orders based on the above proposals; *but*, lastly, that "nothing in these orders shall effect the position hitherto held by former proprietors, or their descendants, who, although they may have lost their proprietary rights, still retain possession, as cultivators, of the land which they formerly held as proprietors. In respect of this class, the Government reserves, for further consideration, the determination of the measures which shall be taken."

Mr. Strachey urged that the Government was getting itself into an awkward position, and the sooner it got out of it the better; that his proposals afforded, if not a satisfactory, at least a not undignified solution of the difficulty; and that he was confident that the Taluqdars would agree to terms on behalf of ex-proprietors which the Government would consider fair; but, failing such assnet, he thought that public opinion would support the Government in legislation for the purpose of protecting ex-proprietors. He thus converted the question at issue from one of the interpretation of our pledges to the Taluqdars to that of how much public opinion would stand in the way of contravening, or what he supposed to be contravening, those pledges. Mr. Davies assented to these proposals, but urged that a clause should be inserted in the declaration, providing that nothing which it contained was to be "understood as lessening the obligation devolving on the Taluqdars, under the conditions of their *sannads*, to promote the agricultural prosperity of their estates."

Mr. Strachey followed up his suggestions for a disposal of the tenant-right question by proposing sundry rules regarding sub-settlements and other under-proprietary rights. The most important of these rules was that which laid down the condition on which alone a subsettlement could be decreed. These conditions were—(1) proof of under-proprietary right in the lands of which sub-settlement was claimed; (2) proof that such right had been kept alive, within the period of limitation, over the whole area claimed; (3) proof that the claimant, or the person from whom he had inherited, had, "by virtue of his under-proprietary right, and not merely through privilege granted on account of service or by favour of the Taluqdar, held such land under contract (*pakka*), with some degree of continuousness, since the village came into the taluqa."

The phrase "some degree of continuousness," of course, required definition, and was to be interpreted as follows:—

(1) "If the village was included in the taluqa before the 13th of February 1836, the lease must have been held for not less than twelve years between that date and the annexation of the province.

(2) "If the village was included in the taluqa after the 13th of February 1836, but before the 13th of February 1844, the lease must have been held for not less than one year more than half the period between the time at which the village was so included and the annexation of the province.

(3) "The lease must in all cases have been held for not less than seven years during the term of limitation, unless the village was included for the first time in the taluqa after the 13th of February 1844, in which case the village must have been held for not less than one year more than half of the period between the time at which the village was so included and the annexation of the province."

It was further provided that if both Taluqdar and under-proprietor had been for any period dispossessed of the village and lease respectively, the term of such dispossession should not count against the latter. Also, that nothing in these rules was to apply to the case of villages which had been included in a taluqa after the 13th of February 1844, and in which no lease had been held for any period under the Taluqdar. It will, perhaps, be remembered that, in May 1864, Mr. Wingfield had entered into an agreement with the Taluqdars by which the latter consented to the establishment of a twelve-years' period of limitation for under-proprietary claims, on the condition that "where villages have been annexed to the taluqa within twelve years, the persons who were in full proprietary possession will not be entitled to recover the equivalent of their former rights, viz. a sub-settlement at 5 per cent. upon the Government demand, but only to the most favourable terms they had enjoyed in any one year since the incorporation of their lands with the taluqa." From the wording of this agreement it, of course, resulted that if a village had been forcibly seized by a Taluqdar in, say, 1853, and the zamindars entirely crushed or driven out, so that they had exercised no rights whatever in the village from the time of their dispossession up to annexation in 1856, they had no claim to any rights at settlement. For the only rights that could be claimed were such as had been held in subordination to the Taluqdar, and by the supposition they had held no such rights, though they had been independent owners of the village, and forcibly dispossessed of their property within three years before annexation. This result, however, was too much for the Government of India to swallow undiluted, [though Mr. Wingfield thought, and no doubt correctly, that it was "in entire accordance with the pledges given by Government"], and it was finally agreed that zamindars in such cases should be allowed a subsettlement at the Government demand, *plus* 25 per cent as a rent-charge to the Taluqdar. Thus the loss which the zamindars had suffered by robbery of the worst type was halved instead of being wholly redressed. The Oudh settlement, in some of its aspects, has certainly been a forcible illustration of Shakespeare's aphorism,

"Some sins do bear their privilege on earth,'

and the deputation of Taluqdars who congratulated and were congratulated by Lord Lytton in the autumn of 1876 on the passing of the Oudh Land Revenue Act, did not speak without reason when they assured him that "the land and all its complex relations are viewed in Oudh in quite a different light from those in other parts of the country, and our ideas of social economy and political connection"—whatever that may mean, perhaps political justice—"have little in common with those of other provinces."

It is time, however, to return from this digression to Mr. Strachey's proposed rules, of which the most obvious feature is that they require the existence of a right to be proved by its exercise from seven to twelve times instead of once, as is the ordinary maxim of law. This somewhat anomalous principle, moreover, was given retrospective effect, and all cases in which claims to under-proprietary rights had been already decreed otherwise than in accordance with these and sundry other rules—excepting cases disposed of by arbitration or compromise—were to be open to revision. The share of the gross rental payable by the under-proprietor to the Taluqdar was to be calculated with reference to the former gross rental and the former payments. No subsettlement could be made if the under-proprietor's share of the profits had amounted to less than 12 per cent., but in that case the latter's *sir* and *nankar* lands were to be preserved to him, and if the profits of such lands fell short of 10 per cent. of the gross rental, they were to be increased by the Taluqdar up to that sum. If the profits of an under-proprietor entitled to subsettlement exceeded 12 per cent., but fell short of 25 per cent. of the gross rental, they were to be increased to 25 per cent., the sacrifice being equally shared by the Taluqdar in the shape of reduced profits, and the Government in that of a lower revenue demand.

In return for this disposal—so favourable to them—of the subsettlement question, the Taluqdars signified their consent to a concession of the right of occupancy proposed by Mr. Strachey on behalf of ex-proprietary tenants, who had been, either by themselves, or by the persons from whom they claimed, in possession as proprietors in any village or estate within thirty years prior to annexation. Such persons were to have a right of occupancy in the lands which they held or cultivated on the 24th of August 1866, provided those lands had not come into their possession for the first time since the 13th of February 1856.* The rent payable by such tenants was to be two annas in the rupee less than the rent usually paid for similar land by tenants not having a right of occupancy, and of the same class or caste, and was not liable to be enhanced more than once in five years. Tenants, also, who had improved their holdings were not to be liable to ejectment, nor was their rent to be enhanced, for thirty years after the execution of the improvements, except on payment of compensation.

Why the limit of thirty years was fixed is not clear. The original phrase employed was "unexhausted improvements," which was obviously much more fair. The imposition of a thirty-years limit merely postpones for that period the landlord's power of appropriating the fruits of another's labour. As long as the improvements have any appreciable value, so long should the tenant, if ejected, be deemed entitled to compensation for them. "Considering," as Mr. Strachey wrote, "that, as a general rule, all improvements are made by the tenants," it is surely desirable that they should have some inducement for making improvements likely to endure longer than thirty years.

Such, in substance, was "the Oudh Compromise" which was embodied in Act XXVI. of 1866, and Act XIX. of 1868, the former pleasantly called the Subsettlement Act, as having for its object the prevention of settlements, and the latter the Oudh Rent Act. In return for curtailments of, and restrictions on, subsettlement,

---

*The possession of this right was made incompatible with the retention of any under-proprietary right whatever, *e. g.* a man who had been decreed half-a-dozen trees in under-proprietary right could not acquire a right of occupancy in the same village or estate.

by which they, as a body, gained very largely, the Taluqdars consented to the recognition of rights of occupancy, of the value above indicated, on the part of what may be, at a liberal estimate, 1 per cent. of their tenantry, and yielded a very limited right to compensation for improvements. It is probable that both concessions together have not reduced their incomes by 1/2 per cent , say eight annas in every hundred rupees. Assuredly they were wise in their generation, and well deserved Mr. Strachey's congratulations on "having as their chief leader and adviser a man of such remarkable intelligence as Maharaja Man Singh." The Taluqdars in general, and that nobleman in particular, received an assurance that "their conduct was highly appreciated by the Governor-General in Council, and Mr. Strachey was warmly thanked for his services in inducing them to concur in such a satisfactory conclusion of questions of so difficult and complicated a character." Thus everybody—except, perhaps, a few thousand under-proprietors who lost control over their villages, and a few million cultivators whose fancied security of tenure was somewhat rudely disturbed—was content, and the chorus of complacency was wound up by Sir Stafford Northcote, who, as Secretary of State for India, had much pleasure in learning that this long agitated question had now been "settled in a manner which appears to be in every respect satisfactory, alike to your Excellency's Government and to the Taluqdars."

CHAPTER VIII

CONCLUSIONS

NEARLY twelve years have elapsed since the edifice of the Oudh Compromise was crowned by the passing of Act XIX. of 1868, but such legislation for the province as has been effected during that period has been concerned with details rather than with principles, and has but little general interest. The main features of the system of agricultural polity have not been materially altered by Acts XVII. and XVIII. of 1876—the Oudh Land Revenue Act and the Oudh Laws Act—and the different classes of the population have been left "free to work out their several good, to go forward in the bright career before them," almost wholly unhampered by any such interference between landlord and tenant as was so earnestly deprecated by the organ of the Taluqdars.

In the preceding chapters it has been attempted to give a general idea of the actual condition and mutual relations of the agricultural population of Oudh, and to sketch, however inadequately, the process by which that condition and those relations have been arrived at. A more difficult task remains, that of endeavouring in some degree to estimate the effects on various classes of twenty-four years of British rule, and to indicate certain practicable remedies for some of the evils from which the province at present suffers.

For the purposes of this endeavour, the rural population may be roughly divided into four classes, viz:—

(1) Single landowners, large and small, superior and subordinate.

(2) Coparcenary communities, independent or under-proprietary.

(3) Tenants without any proprietary right, including that very minute proportion to whom a right of occupancy has been decreed.

(4) Labourers, *i. e.* persons subsisting mainly by agricultural labour for hire, whether they cultivate a small patch of land on

their own account or not.

Concerning each of these four classes a few remarks will be made.

(1) *Single landowners, large and small.*

This class includes the most prosperous portion of the agricultural community. It consists of everyone who holds land in his own right and without shareholders, from the large Taluqdar, master of several hundred thousand acres, to the petty under-proprietor who has obtained a decree for a few *bighas* of *sir* or *nankar*. Many of the class are very wealthy; nearly all ought to be above the reach of actual want of the means of subsistence; most have the fate of a larger or smaller number of tenants in their hands.

The Taluqdars have, of course, gained immensely, from a pecuniary and social point of view, by British rule. The very stars in their courses seem to have fought for them ever since the Mutiny. The irregular and temporary accessions to their estates to which the disorders of the Nawabi gave rise have been legalised and made permanent. Their title to the superior ownership of every village included in their *sannads* has been rendered unassailable. They have been exempted from all the risks of oppression and ill-treatment to which they were exposed at the hands of the King's officials, and, since the passing of the Oudh Land Revenue Act, are no longer liable even to confinement in the civil jail for arrears of revenue. All doubtful questions, not to speak of some about which there should have been no doubt, which arose between them and their under-proprietors have been decided in their favour.

Socially, they have been treated as the honoured favourites of the Government, instead of as its natural and, at best, its tolerated enemies. They enjoy a degree of personal liberty and consideration to which they were formerly strangers. They can come and go whither they will, may array themselves in silk, and drive their carriages in the streets of Lucknow, privileges which were never conceded to them by the Nawabs or Kings of Oudh.

Altogether, they are probably the most fortunate body of men in India. And taking them as a whole, one may gladly admit that, considering all things, they have done quite as much in return for the favours they have received as there was any reasonable ground for expecting of them. Though often culpably indifferent to the welfare of their tenantry, they are seldom actively oppressive.

They are entitled to the credit, and it is no small praise, of having generally refrained from any very marked abuse of the almost unlimited powers conferred on them by our legislation. Improving landlords, or regenerators of agriculture, of course they are not; but that was not to be expected.

The smaller independent zamindars have also gained largely by the introduction of British rule. They have been secured in their property against all risks but such as arise from bad seasons or their own mismanagement. And the danger which they ran in the Nawabi of being crushed by the exactions of native officials and of absorption by their more powerful neighbours, was, of course, greater than in the case of a strong Taluqdar, who was generally able to protect himself against oppression. They probable live more within their income and are often less pushed for money than Taluqdars, their scale of personal expenditure being less pretentious.

The same remarks apply, *mutatis mutandis*, to *sir* and *nankar* holders, who are mostly to be found in Taluqdari villages. Where their holdings are very minute, they, of course, are raised but little above the level of the ordinary cultivator, except, and it is a considerable exception, that they are, *pro tanto*, exempt from all fear of enhancement of rent during the term of settlement, or of eviction.

The economic evil from which the class in question chiefly suffers is indebtedness. They are probably much more deeply in debt than they were in the Nawabi, their credit being better, and the demands both of the State and of their creditors being much more irresistible. So far as their indebtedness is due to personal extravagance, there is nothing to be done but to trust to the gradual influence of education and experience of the painful results of reless lavishness. No Governornment can save spendthrifts from the consequences of their own folly, and no wise Government will attempt that hopeless task. But so far as it is due to our revenue arrangements, it behoves us to consider whether the latter are in fault, and if so, how they can be amended.

There is, apparently, something like a general consensus of opinion that our revenue system errs in being over-rigid and inelastic; that, by compelling payment of the same fixed sum in good and bad years alike, it is apt to drive into debt and embarrassment many who, if allowed time, could satisfy all demands without incurring any such burthen. Our theory assumes that, the assessment not being more than might be paid without difficulty on the average of a series of years, the landholder will save in good years enough to make up for the deficiencies of bad ones. But this assumption is vitiated by two facts, firstly, where money rents prevail, as is the case over by far the greater part of the province, a landowner cannot raise rents within the year merely because the harvests of that year happen to be good. It is only in so far as he is himself a cultivator, which, in all but very diminutive estates, is but to a very slight proportional extent, that he reaps any further benefit from a plenteous harvest than that of being able to collect his rents with comparatively little difficulty or pressure on his tenants. For instance, if a settlement officer has ascertained that the full gross rental of an estate is, or ought to be, Rs.10,000, he will probably assess the revenue of that estate at about Rs. 5,000. However good the harvests of any particular year, the landlord cannot, if cash rents prevail, realise more than Rs. 10,000. But in a bad year, if the failure of the crops be at all general, he will not be able to realise so much, within the year at any rate. Perhaps he may not be able to collect more than Rs. 8,000, or, if he does, it will be by forcing his tenants to plunge into debt to satisfy his rent demand. It is therefore only to a very limited extent correct to say that the extra profits of good years make up for the deficiencies of bad ones.

In the second place, so far as landlords do realise larger profits in seasons of plenty or of high prices, as undoubtedly is the case in grain-rented estates, it is not true that by any means all, or even perhaps a majority of them, put by their extra profits as a fund to meet the strain of bad seasons when they come. When they find themselves with more money than usual, they, as a general rule, spend more.

Thus the assumptions on which our system rests of fixing the revenue demand for a period of thirty years, and realising the total sum assessed in thirty annual instalments, do not correspond with the actual facts of the case, and a rigid adherence to that system, as, for instance, during the scarcity, in many districts amounting to famine, of 1877-78, has sometimes undoubtedly the effect of forcing into debt men who might otherwise have kept out of it

One remedy for this defect in our arrangements which has been often recommended of late may be stated as follow. Instead of realising the same amount every year, whatever the state of the harvest, it is proposed that the demand of, say, ten years should be regarded as a lump sum payable by instalments varying according to the seasons. Thus, if the revenue assessed on an estate be Rs. 5,000, the demand for ten years will be Rs. 50,000. If the first year of the series be a bad one, the collector will perhaps think that not more than Rs. 3,500 can be realised without driving the zamindar, or his cultivators, or both, into debt. He will content himself, therefore, with collecting that amount, leaving Rs. 46,500 to be recovered during the remaining nine years. If the next harvest be more than usually abundant, perhaps the zamindar may be able to pay as much as Rs. 7,000. And so on.

This scheme, if it could be carried out, would certainly have the effect of making the revenue demand buoyant and elastic enough. But it appears open to sundry grave objections. It would, to begin with, destroy the moral effect in promoting providence and foresight which the present system of a fixed annual demand certainly tends to produce. And its introduction, so long, at any rate, as the rents of cultivators are not authoritatively fixed, would almost inevitably cause great confusion in the accounts of landlord and tenant. While the rents payable by the great majority of tenants are, as at present left to be determined by agreement between them and their landlord, there would be serious difficulty, on the one hand, in preventing the *malguzar* from realising from his tenants in bad years an amount of rent proportionately greater than the amount of revenue realised from himself; and, on the other hand, in enabling him, in good years, to realise a proportion of his rental corresponding to his own revenue payments. If, indeed, rents of all cultivators were authoritatively fixed, the matter would be greatly simplified. Until, however, that desirable consummation is attained, Oudh does not seem the most fitting field on which to try the experiment. In grain-rented lands, of course, there is a natural and self-working process of adjustment between harvests and rents, and in estates where grain-rents largely prevail, such as are to be found in some parts of the three northern districts, a revenue demand varying with the season would have a very fair chance of success. Where cash rents are the rule, the fluctuations in rental are, naturally, much more limited, the brunt of bad seasons falling more on the cultivators and less on the land lord; and in such estates a varying revenue demand would be chiefly valuable as giving Government an authoritative right to forbid the realisation from tenants of any larger proportion of rent than it itself collects of revenue. The more the revenue payer is himself in the position of a cultivator, *i. e.* the more his income tends to fluctuate with good or bad harvests, the greater would be to him the boon of an elastic revenue demand Therefore grain-rented *mahals*, and *mahals* in which, though cash rents prevail, the landlord himself cultivates a large proportion of the land on which he pays revenue, seem the most suitable for the tentative introduction of the proposed scheme.

On the whole, it appears probable that the good effects which might result from a sliding scale of revenue collections have been a good deal over-rated, while the objections to it have been a good deal overlooked. Most of its advantages, without its drawbacks, might be attained by the simpler process of giving collectors larger discretionary power to suspend the demand whenever they consider that to satisfy it in full would cause actual distress or compel resort to the money-lender, and to worry them with fewer requisitions for reports and returns. One great, if not the greatest, cause of the growing lack of independence on the part of Anglo-Indian officials is the yearly increasing certainty that the utterance of any objection to carry out orders, or the expression of any opinion unpopular with their superiors, will be met by an immediate demand for a detailed report, accompanied probably by a tabular statement, as to the grounds of the objection or the opinion. So much energy is expended in showing why things should or should not be done, that little is left for doing them, and almost as much time is spent by a district officer in recording or defending his administrative achievements as in their actual performance. The result is too often little but acres of statistics, which, even if trustworthy, are apt to be wholly uninstructive.

The conclusion of the whole matter, as regards single landholders, large and small, appears to be this, that, except in occasional cases of over-assessment, the only economic evil from which they suffer with which we can in any way deal is indebtedness; and that the only remedy which, at present, at least, we can advantageously apply is to give the collector a more unfettered discretion as to suspensions, and, in a few rare cases, as to remissions of the land revenue.

2. *Coparcenary communites, independent and under-proprietary.* The sorrows of these village brotherhoods have always, and

naturally, attracted more attention than the less ramantic troubles of mere cultivators. It may be that we, like Sordello, have—

> " . . . . . *unconsciously contrived forget*
> *The whole, to dwell on the points,*"

and thought, like him, that we—

> " . . . .*might assuage*
> *The signal horrors easier than engage*
> *With a dim, vulgar, vast, unobvious grief*
> *Not bo be fancied off, or gained relief*
> *In brilliant fits, cured by a happy quirk,*
> *But by dim, vulgar, vast, unobvious work*
> *To correspond.*"

But their woes, though more picturesque, are none the less sternly real, and it is to be feared that the sympathy and attention which their interesting nature has excited have done little to alleviate the sufferings of those who have to bear them.

The condition of the village brotherhoods, though it may be theoretically better, is probably practically worse than it was during the Nawabi. It is true that under native rule they had few rights which they could legally enforce, and certain such rights we have given them. But our general principle of maintaining the *status quo* in name has really altered it to their disadvantage. The native officials and the Taluqdars often exercised powers unlimited by any law properly so-called, and the village communities were not seldom the victims of unscrupulous aggression. But the fact that they could frequently resist the Chakladar and the baron with some chance of success preserved them in most cases from extreme oppression. There were doubtless instances not a few of hardship and tyranny and torture very much worse than any which could be found now, but our system of giving ourselves and the Taluqdars powers which, though theoretically less, are practically and in the long run more stringent than those which the native Government and the Taluqdars previously exercised, seems to have reduced the coparcenary brotherhoods to a dead level of poverty and discomfort. The possibility of successful resistance saved them at least from the crushing sense of being in the vice of an irresistible necessity. A state of chronic warfare with an enemy who, though bound by no rules, is not invincible is, to people of the habits and character of the Oudh yeomanry, less oppressive and disheartening than hopeless subjection to a power which, however well-meaning and observant of the laws of war, is at once exacting and irresistible. Our system makes it comparatively easy for them to default, but also renders the penalty of default, when it does come, far more crushing. "The bankruptcy court of the jungle" is a thing of the past. When we annexed the country, we found it in a state of anarchy and solution which, after considerable modifications, at first favourable, but after the Mutiny generally adverse to the interests of the zamindars, we proceeded to crystallise. In this process we have raised the depths and depressed the heights, while the general level of comfort among the coparcenary bodies, is, it is to be feared, lower than it was. When a rigid system of law is imposed on an anarchic country, the gain or loss of the conflicting elements in that country will be in proportion to their capacity or incapacity of adapting themselves to the new conditions, their ability or inability to comprehend and utilise the altered situation. Without forming any extravagant estimate of the mental calibre of the Oudh Taluqdars, it may be safely asserted that they possess a larger measure of this adaptive faculty than belongs to the village communities, and the loss of the latter has been the gain of the former.

In addition to the burthen of indebtedness, which is probably still heavier and more general among coparcenaries than among single landholders, is the evil of internal dissensions, arising mainly from disputes about shares of land and division of profits. Where the community is numerous, the shares are often exceedingly small, and the profits in proportion.

These are evils which it is only to a very limited extent in the power of Government to mitigate. Reduction of revenue can have but a very insignificant effect in relieving the poverty of a crowded coparcenary body. If, for instance, the revenue demand on a village held by such a body be Rs. 1,000 and there are twenty-five sharers, the reduction of the revenue by one-half would only give them, on an average, Rs. 20 each, a sum which would not make a very appreciable difference in their condition, would not suffice to raise them from discomfort to comfort. All that can be done for them, except where their assessment may be proved by experience to be excessive, is to suspend the demand when seasons are bad, and to facilitate and cheapen partitions. Partitions, it may be here observed for the benefit of the uninitiated, are of two kinds, "perfect," which terminates all joint responsibility for the revenue, and "imperfect," which leaves that responsibility in the last resort unimpaired. Generally speaking, it may be said that imperfect has less tendency than perfect partition to disintegrate the structure of the community, and to weaken the feeling of brotherhood and solidarity. It is, therefore, only desirable to carry out the latter where enmity between co-sharers is very inveterate indeed. All that was practicable in this way has perhaps been done already by the provisions relating to the partition of the Oudh Land Revenue Act.

One other object there is to be kept in view in the case of subsettled Taluqdari villages, and that is the dissolution, wherever it may become possible, of the tie which binds them to the Taluqdar. This cannot be done without the consent of the latter—which would seldom or never be accorded—except in case of sale. Where this occurs, the opportunity should be seized to assert a right of pre-emption on behalf of the State, and then make the settlement direct with the zamindars, no longer under-proprietors, recovering the purchase-money from them by instalments spread over a long series of years. This remedy can only be partial, but where we cannot do all we would, we must try to be content to do what we can. The experiment would at any rate be worth trying when it happens that a portion of a taluqa, containing subsettled villages in which marked antagonism exists between the superior and subordinate holders, comes to be sold in satisfaction of decrees against the Taluqdar. The under-proprietors, of Oudh, as a body, have suffered many things at the hands of our administration. But we can at least address to them, though with truer meaning, the words of Richard of Gloucester to his brother's injured widow—

> *"We cannot make you what amends we would,*
> *Therefore accept such kindness as we can."*

(3) *Tenants without any proprietary right.*

Here is the field which is still open to us if we have a sincere desire to elevate the condition of the rural masses. Something like six millions of cultivators, men, women and children, are material sufficient for the widest philanthropy to operate on. The evils which chiefly afflict this "dim common population" are poverty and ignorance, both of a more intense type than prevails among the peasant proprietors and under-proprietors. Of their mode of life some account has been attempted in Chapter II. Here let it suffice to say that they are often under-fed, generally under-clothed, and have, as a rule, scarcely anything that they can call their own beyond a pair of lean little oxen, half-a-dozen pots and pans, a few rude agricultural implements, and, perhaps, a little silver jewellery. Are they ever to rise above their present condition ? That is the biggest question which the future of Oudh has to solve.

If they ever do so rise, it will have to be by their own exertions. No Government can hope to do for them what they can, and, there is every reason to believe, will do for themselves, if only the ordinary motives to exertion are allowed free play. That free play is not allowed at present, owing to the tenure under which they cultivate their fields. The one great boon which we can bestow upon them is perfect security of tenure, at a rent either fixed in perpetuity, or, at least, not liable to be enhanced by the caprice or greed of an interested individual. The most essential of all conditions to the growth of industry and foresight is simply this, that to each man be assured, with the utmost attainable certainty, the fruits of his own labour. In no agricultural community where the land is tilled mainly by petty cultivators can this condition be realised without fixity to tenure. This is a service which it is, beyond dispute, in the power of our Government to perform. But it has not been performed while, as in Oudh, hundreds of thousands of cultivators are always liable to ejectment for no better cause than the *sic volo sic jubeo* of their landlord, be he the Taluqdar of half a district, or the zamindar of a fraction of a village. For it must be remembered that it is perhaps in small even more than in large properties that the cultivator is in need of protection. "A poor man that oppresseth the poor is like a sweeping rain which leaveth no food." Whether or no the power of eviction is very frequently exercised may, perhaps, be a disputed question, though 38,636 notices of ejectment were issued in 1877, and the average of the three years 1875-1877 was over 30,000; but the power is always there. The Oudh peasant who has no recorded rights has no twelve-years' rule to fall back upon. His tenure depends altogether on the will of the proprietor of the soil which he happens to cultivate, and if it is the profit or the caprice of that proprietor to eject him, ejected he must be. It does not need much reflection to perceive the reality of the hindrance which this obstacle must oppose to habits of continuous industry and exertion, and to all efforts at improvement which rise beyond the mere routine of agriculture. The natural hindrances in a country great part of whose harvests are dependent on an uncertain rainfall are sufficiently serious to relieve us from all necessity of creating artificial ones. Vast sums have been, and are likely to be, expended in India in famine relief. Would it not be well to devote more attention to the duty which lies nearest to our hands, a duty which it is beyond question incumbent upon every state to discharge, that of affording security to the cultivator where he is too helpless to take his own part rather than expend our energies in the attempt to secure dense populations against famine by expedients which, however indispensable they may be, and, so long as the land laws remain unaltered, are likely to continue, cannot but tend to weaken habits of independent self-reliance ? The necessity for abnormal efforts such as these is nearly always the result of a long course of previous neglect of the commonplace every-day duties steady performance of which would have rendered the application of more heroic remedies superfluous. Let the peasantry of Oudh, or of any part of India, enjoy for thirty years security of tenure at a fixed rent, without the power to sublet or mortgage their holdings, and it is hardly too much to predict that the necessity for famine relief will disappear. Speculation on final causes is always somewhat hazardous, but if such a conjecture may be ventured, perhaps the final cause of the famines by which India has of late years been afflicted is to inculcate the necessity of return to a normal and healthy system of agricultural tenure. In proportion as life conforms more nearly to rational principles does the sphere of casual acts of benevolence and good nature contract *Si nous voulions etre toujours sages, rarement aurions nous besoin d'etre vertueux.*

This question of land tenure is more important to the welfare of the cultivator in particular and the Empire in general than irrigation, roads, railways, improved agricultural methods, or any other thing whatsover. The State cannot hope to do as much *for* the people, as it may reasonably count on being able to do *through* them. And not only will what the people can do for themselves it they get fair play, and if the ordinary motives to exertion are allowed to operate, be for greater in amount than anything that can possibly be done for them, but it will be more intrinsically valuable, inasmuch as it will not only improve their material condition, but will also tend to raise their character as human beings.

There is, as has been already observed, no question in Oudh of the relative merits of *grande* and *petite culture*, for the sufficient reason that the former cannot be said to exist. There are very large proprietors, but no large farmers. A farm of five hundred acres in the hands of one man is almost, if not altogether, unknown. Wealthy zamindars, indeed, and large lessees occasionally cultivate considerable areas with their own ploughs. These, however, are not in one plot, but consist of scattered patches in perhaps twenty or thirty villages, tilled in methods which in no way differ from those employed by the petty tenant of a dozen acres. Given, then, *petite culture*, the problem before us is to make the best of it. The agricultural system of Oudh is, speaking broadly, a system of larger estates divided into very small farms, occupied by tenants-at-will, cultivating with their own stock, and without any security of tenure. Under such conditions *petite culture* never has succeeded, and it may be safely prophesied that it never will succeed. For the one great strong point of *petite culture* by peasant proprietors or by rent paying cultivators secure of their tenure, is the ardour of individual industry with which it inspires the cultivator. It is this that has enabled it to triumph over all the superior advantages of capital and machinery possessed by large farmers. But that ardour of individual industry cannot exist where there is not perfect security that it shall enjoy the fruits of its own labour. This truth has been at last, though inadequately, recognised in Ireland; it is surely time that it began to be recognised in Oudh. Advocates of the Taluqdari system seem to have imagined that if they could but create a class of large landed proprietors at the top, and a mass of tenants-at-will at the bottom, with only the smallest possible number of peasant proprietors and privileged tenants between them, the virtues such as they are, of the English agricultural polity would, in some mysterious way, be the result. They seem to have serenely ignored the fact that there is no class of capitalist farmers in Oudh, and no large farms; that the agricultural classes, instead of being, as in England, one-sixth of the population, are more then two-thirds, *i.e.* seventy, instead of seventeen, per cent.; and lastly, that there if no commerce or manufactures capable of finding employment for the agriculturists whose divorce from the soil they looked farward to with so much equanimity. There is only one profession which evicted peasants are likely to embrace, and that is, theft in its various branches, dacoity and highway robbery for Brahmans and Rajputs, petty larceny for low-caste men.

No position, consistent with a settled government, can well be conceived less likely to encourage industry and a desire to make the most of the soil than that of the tenant-at-will. If he improves his land by high cultivation, he exposes himself at once to the risk of a demand for enhanced rent. This demand can be enforced by a notice of ejectment, which no length of occupancy, no regularity in paying his rent, can give him any legal grounds for successfully contesting. It is true that if he builds an irrigation well, or digs a tank, or constructs an embankment, he cannot be ejected for thirty years without payment of compensation, nor can his rent be enhanced. But, to say nothing of the frequent unwillngness of landlords to allow him to do anything of the kind, the tendency towards making such improvements is in itself so weak as to be very effectually discouraged by the prospect of having to prove a title to compensation in a rent court. Why, moreover, should the limit of thirty years be fixed ? As already remarked, the phrase in the original draft of the Rent Act was "unexhausted improvements," and as long as the well, tank, or other work, possesses any appreciable value, so long should the constructor, or his heirs, be deemed entitled to compensation if deprived of it by ejectment. Yet this provision, such and so limited as it is, is the only security which a tenant-at-will, *i. e.* ninety-five out of every hundred Oudh cultivators, at present possesses against capricious eviction.

There is no need to prove, nor is it here asserted, that the majority, or even a large minority, of Oudh landlords habitually abuse the power of ejectment which was—provisionally, as I believe—entrusted to them by the Rent Act of 1868. The mere fact of such a power residing in the will of any individual landlord, however benevolent or enlightened, is quite sufficient materially to check the spirit of improvement on the part of those over whom he is at liberty to exercise it. It is idle to expect men to work without motive, and from the influence of the strongest of all motives to exertion the tenant-at-will is wholly excluded. It is to the cultivator, not to the owner of the soil, that, in Oudh, at any rate, we must look for improvements. Of such improvements as are made at present, by far the greater part are made by tenants. If an illustration be asked for of the extent to which the improvement of the country depends upon the actual cultivators, and how small a part the large landlords play in it, it may be found in the Oudh Revenue Report for 1864-65, where we read that in the Sultanpur district, which is largely Taluqdari, between 1861 and 1864 there were 7,947 common wells dug, of which 6,476 were dug by cultivators. Out of 1,172 masonry wells built during the same period, 913 were built by cultivators. "In the late drought the disproportion was still greater, the Taluqdars contributing only three wells out of several thousands." Landholders do often contribute something in the shape of materials, but it is "quite certain that the agriculture of the country is carried on by bullocks, irrigation, manure, and labour, all provided by the ryots, and that the interposition of the large landholders is confined to assessing and collecting the rents." We have heard a great deal of the necessity of creating a feeling of security in the minds of landlords. Would it not be well to try the novel experiment of creating a similar feeling in the minds of tenants?

There is no denying that the condition of the ordinary tenant, cultivating, say, five acres of land with a single plough, and paying a rent of, perhaps, thirty or five-and-thirty rupees, and with a wife and three or four children, not to speak of aged and helpless relatives, to support, is unsatisfactory. And so long as he remains a tenant-at-will, there seems little chance of its amelioration. The most obviously needful preliminary to such amelioration is an increase of the produce which he grows, and, as a necessary condition precedent to this, the prevention, not so much of the increase of rent, as of the liability of rent to increase. As long as the cultivator is aware that if he enlarges the out-turn of his holding by careful tillage, or by the constuction of improvements, he is liable to have the whole or a part of the increment taken from him in the form of enhanced rent; as long as he knows that he is liable to eviction at the caprice of an individual who is pretty certain to exercise his power of ejectment if crossed in any way by any inconvenient manifestation of independence, so long will he be shut out from the influence of the strongest motive to improvement, the certainty that he will enjoy the fruits of his own labour.

Mere fixity of tenure will not suffice to make the position of those who are now tenants-at-will what it ought to be. But it is the indispensable condition without which no appreciable improvement can be looked for. Arguments against interference between landlord and tenant derived from experience of capitalist farming in England, and from the theories regarding the rights of private property which find acceptance there, have, it need hardly be said, no application to the state of things which exists in Oudh, or, perhaps, in any part of India. It is only rent paid by capitalists that is regulated by the capacity of the soil alone. In India the helplessness of the cultivator is one of the chief factors in determining its amount. Competition rent and wages, in the mouths of the well-to-do, usually mean rent or wages determined by free competition of one cultivator or labourer against another, for the benefit of a landlord or a capitalist employer; not a competition on something like equal terms between capital and associated labour. Strictly speaking, the rent paid by the Indian ryot is not economic rent at all. This is recognised by Act XIX. of 1868, which defines rent simply as "the money or portion of the produce of land, payable on account of the use or occupation of land, or on account of the use of water for irrigation." And yet the assumptions on which the Act is based are such as to apply only to economic rent, of which theory may be said to be that it is limited by the necessity of leaving a sufficient margin of profit to the agriculturist to prevent him from withdrawing his capital to other employments. Rent paid by Indian ryots is not so limited, for there is, speaking broadly, no other employment save field labour to which these hereditary cultivators can turn. One in a thousand may obtain domestic service, but what is he among so many? A tenant who, rather than submit to a demand for enhanced rent, relinquishes his holding and migrates to another village can rarely get, at the most, more than a field or two of arable land to begin with. He has to break up waste soil for himself, which is probably of inferior quality, and for the first year will most likely yield no return. Rather than do this, he will often submit to enhancement to an extent which encroaches on his small capital until the chance of a bad season, or an outbreak of cattle disease, leaves him without the means of cultivation, and he sinks to the leave of a day labourer on a precarious income of from three-halfpence to twopence farthing, or, at most, in harvest-time, threepence a day; or, for an advance of a few rupees, becomes the bond slave of some cultivator better off than himself, whose plough he and his children after him will be henceforth, destined to guide. Even if he had the promtitude and decision of character to relinquish his holding at once on the first demand for enhanced rent, and seek better terms elsewhere, he would still be but putting off the evil day, and, sooner or later, he or his children would have to "go through the sad probation all again," and betake themselves once more to unfamiliar fields. Even if, warned by bitter experience, he should induce the owner of the waste which he broke up to give him a perpetual lease, the chances are that the latter, or his successor, would under the confiscation sections (52 and 53) of the Oudh Revenue Act, be able to resume the grant should it ever become worth resuming.

The material condition of rural Oudh cannot improve without an increase in the amount of produce raised, which can only result from the application of more industry and capital to the soil. The experience of twenty years has shown that large landlords will not thus apply capital to any considerable extent, and the industry is not theirs to apply. Even if they did lay out capital in improvements, by far the greater part of the returns would only benefit themselves in the form of increased rent, without doing any good to the cultivator. It is to the actual cultivators themselves that we must look to work out their own economic salvation by the amelioration of the soil. If the capital in their hands increases, we may safely trust to their applying it to the land, provided that the investment be made a perfectly secure one. What is wanted is, in the words of Mr. Caird, "*a sounder system of land tenure, and thereby the substitution of an improving for an exhausting agriculture.*"

The increase of capital must depend, according to Mr. Mill's analysis, on (1) the amount from which saving can be made; (2) strength of the dispositions which prompt to saving.

Now, in Oudh, as regards ordinary cultivators, both these are at a minimum. The surplus of the produce of their labour, after supplying themselves with the barest necessaries of life and paying their rent, is on an average of years, extremely small, and in bad seasons, not unfrequently a minus quantity. And motives for applying the surplus, when it exists, to the improvement of the soil, are extremely weak. The small farmer knows well enough that if he makes his land capable of paying an enhanced rent, that enhancement is pretty sure to take place. Why, then, should he improve his land ? The result is that the few small farmers who have a little spare cash do not apply it to the soil, but lend it to their poorer neighbours—who, as likely as not, expend it in marriage festivities—at 24 or 36 per cent. interest, which undoubtedly, as far as they are concerned, is a more profitable investment.

The stock assertion that tenant-right is "opposed to the principles of political economy" is at present, perhaps, hardly in need of refutation. Political economy, so far as it is a science, rests, partly on physical laws, partly on certain assumptions as to the motives which govern human conduct, and its fundamental assumption is that every individual desires to accumulate wealth. That measure or policy is most in accordance with the dictates of political economy which, by giving the freest scope and fullest play to the ordinary motives to accumulation, holds out the strongest encouragement to productive industry. And that measure or policy is directly opposed to economic principles which, by weakening or hampering those motives, checks the productive and accumulative tendencies. The first set of characterists belongs to any system of land tenure under which the actual cultivator enjoys the secure possession of his fields at a moderate fixed rent; the latter, to any system under which he enjoys no such security; and a system which exposes the tenant to the double risk of capricious ejectment from his land, and to a demand for enhanced rent if his industry should increase the margin out of which rent can be paid, is in the highest decree discouraging to the productive impulse, and therefore deserving of the most severe and summary condemnation upon all principles of political economy in any reasonable sense of the term.

That is an exceedingly narrow and, consequently, mistaken conception of political economy which regards it as merely the theory of *laisser-faire*. That this conception of it should be so common as it is, is probably due to the fact that the science—if one's Positivist friends will allow one to call it so—came into contact when it first arose with sundry restrictive and cumbrous regulations, such as the mercantile system, the corn laws, and others, over which it has now happily triumphed by opposing to them the principles of free trade, an important branch of the still wider law of the "freedom of each, limited only by the equal freedom of all." Political economy has positive resources as well as negative, though it is doubtless true that the most important services which it has hitherto performed have been wrought by demonstrating the injurious results of many kinds of interference on the part of the State in the private concerns of individuals. The attacks of Comte and his disciples have contributed much towards establishing economic theories on a sound footing, by drawing attention to the radical distinction between those so-called laws which have no other basis than positive morality and existing social arrangements, and those real laws of nature which are beyond the control of human will. The absence of a clear perception of this distinction, a confusion of the transient and arbitrary with the permanent and unalterable, has done more, perhaps, than anything else to bring political economy into undeserved discredit.

The general sense of mankind in every age and country, except perhaps in England during the last century and a half or thereabouts, has always regarded the possession of land as carrying with it very different duties and responsibilities from those involved by the possession of merchandise; and the argument that a landlord is as much entitled to "market rates," for his land as a shopkeeper to the *bazar* price of his goods, is merely a misleading analogy There are moral relations between the owner of the soil and those who cultivate it which differ *toto caelo* from the mere "cash payment" which suffices for the "sole nexus" between seller and buyer. As a writer in the "Academy" has well remarked, "the tendency of the law of advancing society has been in the direction of increased legal protection to tenant farmers. The history of the law of tenure is in fact the history of successive interpositions of courts of justice to give security to the cultivators of the soil, who originally were regarded as the servants or serfs of the landlord, and as holding their farms at his will." Landed property is to a great extent "out of the ordinary region of commercial contract, to which the maxim of *laisser-faire* applies. A landlord runs no risk of being driven out of the field by competition like an ordinary trader."

It is true that there is always, even in India, a *prima facie* presumption in favour of *laisser-faire*; but the presumption is much less strong than in any country of Western Europe. In India, where civilisation, in the modern sense of the term, is still an exotic, the secret of growing which is at present almost confined to its foreign rulers, the duty of the Government is considerably wider than in a country of which the civilisation is indigenous, and has been worked out by itself from within. Mere tranquillity, simple preservation of the peace, will not suffice to bring about progress unless the germs of growth which every society has in itself are carefully fostered.

It is not enough to leave the capacity for improvement alone; it must be judiciously nurtured. The task of the Government of India is, on the one hand, so to mould outward circumstances, and on the other so to tutor the intelligence of the people, that the two may act and react on each other until between them they generate a force sufficient to lift the masses out of the ever-deepening pit of stagnation in which centuries of immobility have left them. The first indispensable condition of success in this attempt is, by maintaining order and tranquillity, to secure a medium in which the real work of enlightenment and education may be done, and without such a medium that work could no more be performed than certain experiments could be carried on without the previous exhaustion of the atmosphere by an air-pump. But the maintenance of a medium alone will not suffice for the success of an experiment. In other words, the people of India will not be regenerated by mere preservation of the peace, by *laisser-faire* and unrestricted competition. The germ of growth which is to be found, so far as the rural masses are concerned, in the capacity for improved agriculture and a higher standard of living, must be preserved from the blighting influences of rack-renting and competition, and fostered by the maintenance of perfect security of tenure, of the certainty of enjoyment by the labourer of the fruits of his toil. It may be that at some distant period the day will come when Indian agricultural industry shall be able to take care of itself, and when the keen air of competition shall be but a healthy tonic, and not, as at present, a withering blast. But if the advent of that time is prematurely anticipated, and acted on as if it were already here, it may be safely predicted that it will never come at all.

The train of ideas which we have introduced—individual right, as opposed to family or tribal custom, contract as opposed to status—has already vastly changed, and seems certain, if unchecked, entirely to alter, and that ruinously for the worse, the conditions of agricultural life. And the change is one over which it is impossible, at present, to feel enthusiastic, and which, if, as it has been, and is being, prematurely accelerated, will not and cannot come to good.

We all know what is to be urged in its favour. This breaking up of old ties, it is said, is a necessary step in the path of progress. The earliest state of historic man is corporate life, the life of the family and the tribe. From this he has emerged in Europe, and is emerging in India, to the stage of individualism, in which everything seems to indicate that his next step will be towards corporate life again, but a corporate life, this time, of a grander and larger type, which shall find room for and include individuality; in a word, towards a system, chiefly, at first, at least, industrial, of conscious and voluntary association. Individualism is a necessary step in the progress towards a higher mode of association, towards the coordination of the individual with the collective life.

Now few, probably, will deny the justice and truth, on a large scale and in the long run, of such considerations as these. But it is surely difficult not to feel that they look, so to speak, far over the heads of the actual facts around us. The terms of the formula are too vast to admit of its being a safe guide for our practice. The periods of time which are required to render it a trustworthy clue to the interpretation of history are centuries, not years, or even decades. The State of social conditions prevailing in rural Hindustan at the present day probably resembles that which existed in England a few years after the Norman conquest more nearly than any which has succeeded it in our own history. The results which it has taken England, roughly speaking, eight centuries to reach, Oudh is not likely to go very far towards attaining in twenty, or in two hundred years, even supposing the results themselves to be much more undeniably satisfactory and desirable than they actually are. In truth, these large generalisations are apt to lend themselves to the formation of most dangerous rules for the guidance of our political practice. The principle of natural selection, as exemplified in history, is a grand and imposing spectacle, but it is not for us to identify ourselves too closely with the destruction of weaker by more vigorous types. Natural laws can take very good care of themselves, and the true function of the rulers of mankind is rather to temper and soften their working, to infuse, so far as may be, an element of kindly human pity into the vast unconsciousness and impersonality of these tremendous agents, than to throw their influence, such as it is, into the descending scale, and to attempt the wholly superfluous task of assisting a chemical movement by mechanical means. "Wholesale moral arrangements," as Oliver Holmes happily remarks, "are so different from retail," and all consciously devised human efforts may be regarded as retail, in contradistinction to the illimitable and ultimately irresistible march of Nature. Nor is this in any way to advocate a blind resistance to natural processes; rather is it to urge the duty of clearly apprehending the character and tendency of those processes, that so we may follow their movements, and succour the unfortunates who have been crushed beneath the mighty wheels of the irreversible engine. We can never break the laws of nature; to attempt it is but to break ourselves against them; but we may do something, at least, to alleviate, if not to avert, the ruin of those whom these laws have overwhelmed. Progress, we have been told on high authority, is a "march from status to contract," and it is probably impossible, still more probably undesirable, to reverse or materially alter this tendency. But it is both possible and desirable to make the change less bitter and ruinous, to make it even beneficial, to those whose lives, hitherto based on custom, are being broken up and overwhelmed by the subversive agency of contract.

Wherever the operation of the principle of *laisser-faire*, or unrestricted competition, does not suffice to secure a fairly approximate coincidence of actual with economic rent, a case is made out for legislative interference. The rents paid by Oudh cultivators leave them little or no profit after supplying themselves with the barest necessaries of life. There is thus no source from which they can accumulate capital, and so long as the rent demand remains unlimited, and ready to swallow up a part if not the whole of the increased produce which would result from better agriculture, it may be safely asserted that such increased produce will not come into existence at all. The land, as has been well observed, "reflects like a mirror the motives at work upon it," and as long as the predatory impulse of the landlord is allowed to swamp the productive impulse of the tenant, so long will the increase of wealth, if not altogether checked, be confined within very much narrower limits, both of extension and intension, than it would attain if the productive impulses had free play.

The great evil of rural Oudh is, as has been already observed, the insufficiency of the produce of the soil to maintain the population in comfort, after defraying their rent and the cost of cultivation. While this is so, of what use is it for Government to devote its energy and its resources to anything but direct action on the sources of the evil ? While the millions suffer from chronic hunger, it would be as easy to make a pyramid stand upon its apex as to regenerate them by ornamental legislation, or by anything but putting them beyond the ceaseless pressure of physical want. While the one thing greatly needful is left undone, mortuary statistics, and crop statements, and wholly uncalled-for alluvion and diluvion reassessments, and all the similar inventions on which the energy and patience of district officers are at present expended, can be little better than so many pretentious futilities.

At least fifty per cent., probably far more, of the population of Oudh are too poor to be able to send their children to school, or to have any desire to do so. Their life is a narrow round of small but grinding vicissitudes, the pressure of which is not to be relieved by such instruction as our schools can impart. "Education," to quote Mr. Mill, "is not compatible with extreme poverty. It is impossible effectually to teach an indigent population." Population and subsistence are always running an endless race, and the material well-being of any community depends, *caeteris paribus*, on the extent to which it can succeed in handicapping population. It is, of course, a physical impossibility for population actually to *outrun* subsistence, but it may press on it so closely as to leave no margin upon which men may pause a breathing while, no interval of ease which they can devote to any higher aim than the provision for merely physical needs. Human welfare is mainly dependent on the possession and good use of such a margin. To use it well is as important as to possess it, but it must be possessed before it can be used at all.

The soil of Oudh, densely crowded though it be, is quite capable of supporting a considerably large population in far greater comfort than the existing population enjoys. Small as the great majority of cultivating holdings are, they are quite sufficient, if tilled with the industry which is at present almost the monopoly of a few special castes, to yield a return which, supposing the rent demand to be limited to its present amount, would put their occupants beyond the reach of actual want of food or clothing. It should never be forgotten that what is needed is not the breaking up of fresh soils, but the better and more careful cultivation of the land already under tillage. The area available for grazing is already far too scanty in at least nine districts out of twelve, and the pastures of the three northern districts are by no means too extensive for the great herds of cattle which are driven up to them from the south It is therefore far from desirable, except in small occasional tracts of peculiarly circumstanced country, that cultivation should be extended. The increased produce which is needed for the adequate support of the people must be derived from an increased intensity of industry, not from an extension of its area. If, as is probable, the fixation of rents all over Oudh should have a tendency to confine cultivation to lands already under the plough, and to hinder the further breaking up of waste, this result would be in itself a very strong argument in favour of such a measure, not, as has been sometimes urged, an objection to it. The best, if not the only hope of saving the breed of cattle from still further deterioration is to keep the existing grazing grounds undiminished.

The dependence of the Government of India for so large a portion of its income upon the land naturally disinclines it to interfere with the power of the landlord to increase the rents out of which he pays his revenue. But, if the condition of the rent-payer is not to go on from bad to worse, this reluctance must be overcome, and the fact recognised that rents have increased and are increasing, and that the increase ought to be checked. In some few instances a fixation of rents might necessitate modifications of the revenue demand. But these would probably be very few, and if any landlord chose to complain of breach of faith, through such a complaint would, considering the circumstances and history of Oudh, be without foundation, his mouth would be effectually stopped by an offer, which it is practically certain would not be accepted, to take his estate off his hands at a fair valuation.

But the value of land, even to the landlord, would not, if Irish precedents may be trusted, be ultimately reduced by the establishment of a sound system of tenure. Mr. O'Connor Morris, in the "Fortnightly Review" for September 1876, assures us that the value of land in Ulster, in the time of Cromwell, was but one-third of what it was in Leinster, one-half of what it was in Munster, and about equal to that of Connaught. It is now nearly equal to that of Leinster, and much greater than in Munster or Connaught, having thus increased nearly three times as fast as in the former, and five or six times as fast as in the two latter provinces. The causes, apart from Protestantism and the growth of manufactures, to which this rise in the value of landed property in Ulster is attributed by Mr. Morris are the comparative soundness of the prevailing tenure, and the fact that the peasantry were not kept in such a state of serfdom as in the south and west of the island.

It is not uncommon to hear people defend the introduction of rules framed in the interests of landlordism, and the exclusion of rules opposed to those interests, on the ground that such introduction or exclusion is "a legitimate consequence of the Taluqdari system." But, as a matter of fact, this is no argument at all. Inasmuch as no form of land policy produces, to adapt a passage from the sixth book of Mr. Mill's "Logic," "all possible beneficial effects, but all are attended with more or fewer incoveniences; and since these cannot usually be combated by means drawn from the very causes which produce them; it would often be a much stronger recommendation of some practical arrangement, that it does not follow from what is called the general principle of the policy than that it does." The sweeping measures in favour of a landed aristocracy which succeeded our reoccupation of Oudh are in themselves a sufficient ground for refraining from further minor arrangements of the same tendency, and for introducing qualifying measures to prevent the humbler landed interests from being altogether dwarfed and blighted by the shadow of a widely spreading landlordism.

Two of the most necessary qualities, and at the same time the most difficult of combined attainment, in any society are, manliness of individual character, and the habit of obedience to the law of the community. They cannot be combined if the law, directly or indirectly, requires the sacrifice of manliness, and the result of that requirement will be widely different, but equally pernicious, according to the characters of those brought under its influence. Those who are manly in excess, *i. e.* turbulent, will learn the habit of evading and defying law until they become practically outlaws; while those who are naturally deficient in manliness will become mean and slavish subservients of an authority which they do not in their hearts respect or recognise as just. This is exactly what our land policy in Oudh tends to bring about. By putting under-proprietors and tenants in a position in which subservience and self-abasement before their landlord is their best chance of escaping oppression, we tend to disgust all nobler spirits with our laws and ourselves, while we put a heavy premium on mean servility for those whose natural tendency is in that direction. Law should enlist on its side the best, not the most contemptible tendencies of human nature. "What is honour?" asks Wordsworth. And he answers that it is "the finest sense of justice which the human mind can frame." We may feel sure that a system which divorces honour from justice will not be likely to make those whom it affects either honourable or just.

Much as every reasonable reformer must wish to conciliate all classes, and to avoid arousing class irritation, it is still needful clearly to recognise that the pecuniary interest of the rent-payer and the rent-receiver are not, and never can be, identical. It is an inseparable feature of all social evolution that antagonisms such as these are constantly brought into clearer and clearer relief, and the issues more and more sharply defined. From a purely abstract point of view, the soil of a country belongs by natural right, if there be such a thing as natural right at all, to the whole people who inhabit that country, and that portion of the people who are allowed by the community to occupy the soil should be permitted to do so only as tenants of the State, and subject to such conditions as it imposes. Of these conditions the two most indispensable would seem to be the payment of a tax as return for the privilege of occupation, and cultivation by the actual holder. Such is the Hindu theory of land tenure, which was adopted, though with many divergences from it in practice, by the Mughals, and no more unexceptionable source of public income could well be conceived than a land tax based on these principles. To have allowed individuals to acquire rights of property in the soil other than rights of cultivating occupancy under the State, has perhaps been one of the greatest misfortunes which have befallen the societies of Western Europe. It was a mistake from which India, in theory at least, remained to a great extent free, until, in an evil hour, we committed her to its theoretical as well as its practical adoption. By this, of course, it is not intended that we found the country everywhere in the hands of occupancy tenants of the State, and subverted their rights in favour of a class of absolute landlords created by ourselves. We did something not very unlike this in Bengal, but in Oudh no one would think of denying the existence of a class of landlords whose rights it was impossible to ignore. But the native Governments always asserted and, in an exceedingly feeble and spasmodic way sometimes actually exercised, its right to interfere between landlords and tenants in order to preserve the latter from extortion and oppression. So recently as at the beginning of the present century, S'adat Ali did a great deal more than this, and asserted by actual exercise the right of the ruling power to abolish any privileges assumed by middlemen which it deemed injurious to the welfare of the actual cultivators of the soil. Our right thus to interpose has fortunately never been abdicated. but has been allowed to fall into abeyance by disuse. The evils of any system of absolute proprietorship exercised by individuals over land which they do not themselves cultivate may be disguised and modified by the benevolence and unselfishness, of particular landlords; but every such system is in itself radically vicious, and, where carried out in all its bad integrity, means the exploitation of the industrious poor by the idle rich, the appropriation of the fruits of labour by indolence, the interception of the just dues, and far more than the just dues, of the State by landlords who, in England, give next to no direct return for them, and in India—from an abstract, not an historical, point of view—are little better than absurdly over-paid tax-gatherers. Underlying all agrarian struggles and controversies is the fundamental antagonism of the landlord to the actual occupiers and tillers of the soil, whether these be farmers and labourers, or small labouring farmers. This warfare, which, at home, has been the evil outcome of the abnormal history of English land, might have been put an end to in India by clearly recognising and formulating the ancient doctrine of the country, that the State is the sole landlord, and that though the rights of middlemen, where of long and clearly defined standing, must in justice be maintained, they should be confined to the limits which they have actually reached, and not permitted to extend themselves indefinitely in the future by absorbing a continually increasing share of the produce of the soil. It is true that in Oudh departures from and abuses of the original theory of tenure had, at the period of annexation, become so general and inveterate as to make the blunder of mistaking them for the theory itself more excusable than in, perhaps, any other part of India. But the fact remains that the direct tendency of our rule has been to saddle the province with the burthen of something not unlike our own unique English system, which our enormous trade and manufactures have with difficulty enabled us to bear, and which, even with these advantages, seems on the point of breaking down The benefits conferred by strong rule and settled Government should indeed be great to compensate such an overwhelming injury as this, if it were final and irreparable.

Final and irreparable, however, it is not. There is still room to remedy the mischief which has been wrought, by allowing the right, or rather the duty, of the State to interfere when needful for the protection of the cultivator to remain thus long in abeyance.

And here it will probably be objected that any such interference would be a breach of faith towards Taluqdars. That this objection is baseless seems to me to be demonstrated by a study of the controversies extending over the ten years from 1858 to 1868, of which in the preceding chapter I have endeavoured to give an impartial, though certainly not an indifferentist, account. Here, however, it may be repeated that the objection is sufficiently answered by the already quoted third paragraph of Schedule I. of Act I. of 1869:—

"This right (the right of the Taluqdars to engage for the revenue of their taluqas) is conceded subject to any measure which the Government may think proper to take for the purpose of protecting the interior zamindars and village occupants from extortion, and of upholding their rights in the soil in subordination to the Taluqdars."

To this there appear to be only two objections which a Taluqdar could take, viz. (1) that "village occupants" does not include mere cultivators; (2) that the rights to be upheld were rights existing at the time the reservation was made, not rights subsequently created.

Now whether or no Lord Canning, when he penned the words in question, was thinking only of zamindars and of rights already existing, the plain meaning of protecting village occupants from extortion includes the protection of the resident cultivators of a village from rack-renting; and experience has sufficiently shown, what should never have been considered doubtful, that without a legally recognised tenant-right cultivators cannot be effectually protected from rack-renting.

If anything further were needed to complete the case in favour of interference, it might be found in Sir C. Wingfield's letter to Sir W. Grey, dated the 2nd of March 1866, of which the following passage bears directly on the point in question:—

"The condition in the sannads that the Taluqdars shall promote the agricultural prosperity of their estates would alone furnish the Government with warrant for stepping in to prevent oppression of the cultivators, for they cannot be oppressed without agricultural deterioration. But interference would be justified on the broad grounds of good government. The Taluqdars will see this clear enough."

What Sir Charles Wingfield has admitted, it is probable that but few advocates of the Taluqdars will seek to deny. "The broad grounds of good government" suffice to justify, or, to speak more correctly, impose on us as a binding obligation, the protection of the cultivator from rack-renting *in esse*, and still more *in posse*. It is the liability to be rack-rented, rather than the severity of the rent actually paid, which is fatal to improvement. Even where rent is at present heavy, there is every reason to believe that, if it were fixed and made permanent, it would in a few years come to be paid with ease out of the increased produce to the growth of which the influence of the magic power of security in the mind of the cultivator would almost certainly lead. Even on grounds of "parchment," the case for interference is sufficiently made out; but

"What needs the bridge much broader than the flood?
The fairest grant is the necessity."

That necessity being sufficiently patent, no word more need, perhaps, be said here of its justification.

It has been well remarked, however, that "the arguments are never all one side in any political question, and the writer who sees absolutely no difficulty suggests to a wary reader that he is ignoring something relevant." Speaking in all seriousness and sincerity, I can see but two objections that are entitled to any weight to the establishment of universal tenant-right. That they are grave objections may be freely admitted; but they are not such as should turn the scale in favour of leaving things as they are.

The first and least weighty of them is that the measures necessary for the introduction and record of fixity of tenure would involve the creation of a special agency, which would, of course, cost money. It would probably, if the measures were to be effective, cost a good deal of money. The officers employed would need to be of the most undoubted trustworthiness, especially if, as seems most desirable, their proceedings and orders were declared final and unappealable. They would have to revise, on the spot, rent-roll of every village in the province, and to rely as little as possible upon native subordinates. No appellate court could have anything like the same means of arriving at a sound decision on the facts as the officers on the spot; and even if they made occasional mistakes, it would be a far less evil that these should remain uncorrected, than that landlords and peasants should be alike impoverished and their minds disturbed by the grant of the dangerous power of appeal. Supervision of their proceedings could, of course, be exercised by the Commissioners of divisions.

The actual cost of such an agency can only be very rudely estimated. But suppose two officers to be appointed for each district on, say, Rs. 800 and Rs. 700 a month respectively. Each of them would probably require a couple of writers on, say Rs. 60 and Rs. 40 *per mensem*, and perhaps five *amins* on Rs. 20 a month each. Allowing a margin of Rs. 100 for contingencies, the total cost per district would be Rs. 2,000 a month or Rs. 24,000 per annum, and for the whole province Rs. 288,000 yearly, or about one-quarter of the land revenue of a good-sized district. If the work was carried on at the rate of a village a day, excluding Sundays, for thirty weeks during the year, the four and a half months from the 1st of June to the 15th of October being spent at the head-quarters of the district or in the hills, 360 villages would be disposed of yearly. Taking the average number of villages in a district to be 2,000, the work would be accomplished in between five and six years, and its total cost would be under £ 175,000, or less than one-eighth of the entire land revenue of the province for one year. It might, perhaps, be done more cheaply and more expeditiously, but the effectiveness of the work would be more important than the price or the rate of speed at which it was accomplished. If we call to mind the circumstances under which Oudh was annexed, and the protestations of the then Government of India that they were acting solely for the good of the province, and their assurances that the cost of all measures needed for its development should be defrayed out of its taxes before the appropriation of the surplus for imperial revenues, it can hardly be denied that the necessity for expending such a sum as this should not stand in the way of a measure of supreme importance to the welfare of something like seven-tenths of the population.

The second objection is of a more serious nature, and may be thus stated:—After a great deal of agitation and ill-feeling caused by protracted settlement operations and litigation extending over a long period of years, and only very recently concluded, the minds of the people should be allowed to settle down quietly, and to reconcile themselves to existing facts. Any further disturbance and agitation are therefore to be deprecated. Interference between landlord and tenant will merely irritate the former, without really benefiting the latter, whose fate would probably be made worse instead of better if he were forced into a position of antagonism to the owner of the soil he tills, whose generosity and good feeling, if allowed free play, would be his best protection. Landlords would consider any measure calculated to make their tenants independent of them a breach of faith, even if it were not really so, and would do all in their power, to discredit it and throw difficulties in the way of its execution.

I trust I have not understated the objections which might be urged on this score, and have certainly no conscious desire to under-estimate their gravity. I freely admit that if the measure I have tried to advocate were of secondary importance, if it were a measure of which, however desirable it might be at present, the need would in time come to be less felt, and without which rural prosperity might, with reasonable likelihood, be ultimately hoped for, then the objections to it would be overwhelming. It is only because I firmly believe it to be an *articulus stantium aut cadentium rerum agrestium*, that I venture to urge so persistently its adoption in the teeth of all difficulties. The obstacles in the way of its accomplishment may be great, but they are far from insuperable; and if they were ten times as formidable as they actually are, they will still have to be faced sooner or later. The sooner, therefore, they are faced the better, for they will increase, not diminish, with lapse of time. The truth which underlies the fable of the Sibylline books is of perennially wide application. and to no class of questions does it apply more forcibly than to that now under consideration. The longer we wait the greater will be the strength of prejudice to be overcome, and the less valuable, though not the less indispensable, will be the result to be obtained. If the peasantry of Oudh are not to become cottiers of the most debased type, if they are not to be degraded by want and starvation below even their present level, they must be given security of tenure at a fixed rent. That is the cardinal point to be kept in view. That the tendency of the tenure of all unprivileged cultivators in Oudh is straight in the direction of cottierism, appears wholly undeniable. How long it may take to reach that evil goal, how long it may be before the last shreds of beneficial custom are torn away, it is impossible to predict. But this, at least, is certain, that when that goal is once reached—and we can see it clearly enough, even now; in its half-veiled nakedness—all remedial measures will be, if not altogether too late, at least vastly more difficult of execution and very much less likely to succeed than if they are applied now while it is yet time. Let us, therefore, "open our eyes, lest they be painfully opened for us."

I earnestly hope that arrangements to secure the end in view may be devised by heads so much wiser and more experienced than my own, as to render wholly superfluous any attempt on my part to propound anything like a scheme for its attainment. But after having insisted at, I fear, such wearisome length on the necessity of security of tenure and fixity of rent, it would, perhaps, be shirking the consequences to omit all suggestion as to the practical means of obtaining them. Let me endeavour, then, with all due diffidence, to state as briefly as may be what I hope some day to see done.

In the first place, it should be announced to the people of Oudh that the Government of India has become convinced that the condition of the cultivators is not what it ought to be, and has satisfied itself that the only way to prevent its passing from bad to worse is to fix rents for a term of certainly not less than thirty years, and to maintain the actual occupants in possession so long as the rents thus fixed are paid. The grounds of this opinion might be very briefly and clearly explained, and it might be pointed out that the Emperors of Delhi, the Nawabs and Kings of Oudh, and all native sovereigns throughout India, always possessed, though in modern times, at least, they rarely exercised, the power of interference for protection of the cultivator: that nothing which has occurred since the annexation of the province has, or could have, deprived the Government of the power so to interfere; and that that power it is now intended to assert, not as a right, but as a duty which has been too long neglected.

It might be added that the Government is aware that this announcement will be unwelcome to a large majority of the landholders affected by it, and regrets the fact ; but believes that the incomes which they actually enjoy will not be diminished, and promises that if, in any case, the aggregate rent-roll of an estate as authoritatively fixed should be found to be less than double the

the Government demand, that demand shall be reduced accordingly. It would hardly need saying that, whatever the rent-roll, the revenue would in no case be enhanced during the term of settlement. The only change which would be brought about in the position of landlords would be that they would henceforth have no power of enhancing the rents authoritatively determined, or of ejecting any cultivator on any other ground than failure to pay the amount so fixed, powers which cannot, consistently with the welfare of the cultivators, be left in the hands of any individual landlord, however benevolent or enlightened, and the withdrawal of which would, therefore, convey no slur or disgrace upon anyone. In conclusion, it might be declared that while Government relies upon the royal acceptance by landlords of the decision at which it has arrived, and upon their belief in its disinterestedness and sincere desire for the good of its subjects, it will view with extreme displeasure, and will take measures effectually to punish, all wilful attempts to deceive or throw obstacles in the way of the officers to be appointed to carry out the necessary measures. On the other hand, all landholders who co-operate cordially with those officers will be deemed to have established a claim to its special consideration and favour.

The next step would be to introduce a short Act to amend the Rent Act (XIX. of 1868) by providing that hanceforth the only grounds on which tenant shall be liable to ejectment will be failure to pay rent at the rate fixed by the officer supervising rents-rolls. Any tenant against whom a decree for arrears of rent had been passed should be liable to ejectment if the decree remained unsatisfied after one month from the date of an application by the decree holder for his dispossession, or after such further time, not exceeding six months, as the court in its discretion might allow. Thus the idle spendthrift or dishonest embezzler, whom no one wishes to protect, would remain liable to the penalty of his idleness or dishonesty; while the hard-working, straight-going cultivator would be secured from all danger of rack-renting or capricious eviction. The position of all non-proprietary cultivators would thus be assimilated to that of the few who at present hold a right of occupancy under the Rent Act, except that their rent would not be fixed at a rate less by two annas in the rupee than that generally prevailing, and would only be liable to enhancement in the event of a fresh settlement of the land revenue, instead of once in every five years. The effect which this new security of tenure would produce by stimulating its recipients to industry and improvement cannot be estimated by the use which the few who already possess it have made of their advantages, though that is not inconsiderable. For it must be remembered that the latter, with the exception of a few Musalmans, are almost exclusively Brahmans and Chhatris, the idlest and least improving classes of the cultivating body. The Kurmis, Muraos, and all the more industrious castes, are at present almost wholly unprotected, and would certainly turn the boon of security to far better account.

Independently of any general fixation of rents, and as a temporary measure, it might be provided that no tenant should be liable to ejectment except for failure to pay the rent previously agreed on between him and his landlord, or for refusal to agree to the payment of a fair rent in future, of which the rate, where the parties are unable to come to terms, should be decided, on the spot, by the Court, whose order should be final and unappealable.

There should, it need hardly be said, be no limitation of the right of occupancy to tenants who have held the same fields for twelve years, or for any other period. Any such rule is open to the obvious objections that it would not protect the cultivators against the very class of landlords from whom they most need protection, the tyrants and extortioners who are constantly evicting their tenants and changing their holdings; and that it would often lead landlords to evict wholesale all tenants who had not held for the prescribed period. It must once more be repeated with an iteration which would be utterly damnable if it were not so entirely indispensable, that *absolute security of tenure, at a fixed, equitable rent, must be made the indefeasible right of every cultivator whomsoever, not treated as the privilege of a favoured few.* As a necessary condition of healthy agriculture and sound rural economy, it should be conferred on the Chamar no less than on the Brahman, on the tenant of one year's standing, as well as on him of five hundred years'. As previously remarked, any special rights which may be derived from ancient status, high caste, or relationship to the landlord, should find recognition in a favourable rent-rate. But security of tenure at a fixed rent must not be deemed a privilege of the cultivator; its maintenance is one of the very first and most binding duties of the State. In our accurate survey, in our field maps and settlement statistics, we have facilities for attaining this great ideal such as no previous rulers of Hindustan—Hindu, Pathan, or Mughal—ever possessed. Let not the latter end of our rule in Oudh so wholly forget the beginning as to perpetuate and stereotype that degradation of the cultivators to remedy which we professedly annexed the country. The Mutiny should have been treated as an interruption of our policy, charged, indeed, with grave lessons well worthy of being laid to heart, but not as a new revelation changing its aims and objects. Let it not be said of us by the future historian that, with all the means in our hands of raising the peasantry of Oudh from the squalid poverty and debasement which for centuries past have been their lot, we ignobly suffered them to perish for mere want of an enactment that they should be saved.

The last measure requisite would be to appoint officers to carry out the revision of rent-rolls and to frame the record of rents and holdings. Rules would, of course, have to be laid down for their guidance. These would involve many points of detail, to treat of which this is not the place, but the spirit of them should be, as far as possible, in favour of maintaining existing facts. Rents, it need scarcely be said, should not be raised merely because they are light. Where a tenant holds land under a lease at a progressive rent, the amount payable in the last year of the lease, or one somewhat greater, might be taken as the rent to be paid from the date of its expiry. Where good reason is apparent for raising an inordinately low rent for the lightness of which no ground can be assigned, the increase should in no case exceed 50 per cent., and wherever it exceeds 25 per cent., the rise should be gradual and distributed over not less than five years. If any tenant declined to agree to the rent fixed by the supervisor, it should be clearly explained to him that by declining he will lose all right to be maintained in possession against the will of the landlord, except such as he may be able to establish in a civil court, whereas by agreeing to the rent determined he will be secure from all enhancement until, at any rate, the expiry of the term of settlement. If he still adheres to his refusal, the fact should be recorded, and the recusant left to his fate. Rent-free holdings would, of course, not be interfered with unless on the application of both landlord and occupant. Powers should be conferred on the supervising officers summarily to fine any person attempting to obstruct or deceive them. Such sentences should be unappealable, but it ought, of course, to be impressed on the officers on whom these powers are conferred that thier exercise must be strictly confined to cases in which there is no possibility of the least shadow of doubt. The hand of the supervisors would need to be strengthened in every reasonable way, and the principle to be kept in view should be to choose good men and then trust them implicity. So far as practicable, and exeept where it is manifestly absurd or unfair, the *status quo* should be adhered to.

The most difficult cases to be disposed of would probably be those of the tenants known as *shikmis*, *i. e.* sub-cultivators holding under another, who is generally a proprietary or privileged tenant. Their names are not to be found in the rent-roll, though they may have cultivated the same land for generations. It is most desirable that the principle of fixing rents should be carried out in its integrity, and therefore that *shikmi* cultivators should be included in the operations. But if it were found by experience so difficult as to be impracticable, the record might be confined to those tenants whose holdings are recorded in the rent-roll, and *shikmis* left to the protection of a general rule that no cultivator whose rent has not been authoritatively fixed shall be ejected, except for failure to pay the rent that has been agreed on between him and the person entitled to receive it, or for refusal to pay a fair rent in future, the fairness of such rent, where disputed, to be settled by the court, and when once thus determined, not to be altered during the current term of settlement. Subletting would have to be guarded against by some such provision as that no suit brought by a recorded cultivator, as a sublessor against a sublessee, for rent of the whole or any part of his recorded holding should be entertained, unless where the sublease was in force at the time the holding was recorded. The whole subject is by no means free from difficulties, and the rules for guidance of supervisors would need to be thought out with the utmost care. Their chief characteristic should be what may be called an elaborate simplicity, *i. e.* a simplicity resulting from the careful thought and patience devoted to their elaboration.

But, assuming tenant-right to be an accomplished fact, and every cultivator in the province to be in the enjoyment of security of tenure at a rent fixed for a period not less than the current term of settlement, there remains one difficulty to be considered. It may be said that the occupancy right of the cultivator will soon pass

CC-0. Agamnigam Digital Preservation Foundation, Chandigarh

into the hands of the money-lender, whether mahajan or zamindar, by mortgage, sale, and the action of the civil courts. Of the reality of this danger the state of the petty proprietors of Jhansi is sufficient proof. But the remedy is obvious and simple. All that is needed is a mere enactment that occupancy rights shall be incapable of mortgage, or of attachment or sale in execution of civil decrees. Sale accompanied by an immediate delivery of possession might, perhaps, be permitted, to meet the case of a cultivator who had expended capital on his land, and wished to abandon his holding for good, and to emigrate or pursue some other calling. But of such sale the sanction of the Collector should be an indispensable condition, and should only be accorded where he has satisfied himself that the cultivator's intention and desire to sell are *bona fide*, and not forced upon him by any terrorism or cajolery of the would-be purchaser. This restriction would be needed to protect the peasant from his own weakness and ignorance and from the earth-hunger of the mahajan. As long as the former has land to mortgage on which he can raise money without immediate loss of possession, so long will he, in five cases out of six, be unable to resist temptation, and will fall, an easy prey, into the meshes of the net spread for him by the money-lender. But unless he means to abandon agriculture altogether, he will hardly ever sell his holding outright. He will thus have all the advantages of a zamindar, cxcept that his rent will, of course, on an average, be about double the incidence of the revenue assessment on his fields, and that he will be without the dangerous privilege, which has been the ruin of so many zamindars, of raising money on his holding. Such a position will afford the strongest possible inducements to thrift and good husbandry, and will expose him to the minimum of danger from the wiles of his natural enemy, though, at present, indispensable associate, the mahajan. The stock objection that, without the power of mortgage, the tenant will be unable to borrow money when needed, and will have to pay a higher rate of interest on what he does borrow, is entitled to no weight whatever. His present power of borrowing, such as it is, quite sufficient for him, and it would be, to say the least, in no way impaired by the measures proposed. It is very doubtful whether, even by mortgaging, he would be able to borrow on much more favourable terms than at present. Taluqdars in Oudh seldom borrow at less than 18 per cent., and the poorest cultivators generally pay not more than 24 per cent. It is obvious that such a trifling difference as this would be wholly incommensurate with the risk which would be run by the tenant, were the power of mortgage conferred upon him, of the total loss of his rights. Moreover, such occupancy rights as at present exist under the Rent Act are incapable of either sale or mortgage, and no particular need of any such power appears to be felt by their holders. The power of sale might, as already remarked, be allowed, to meet exceptional cases; and it might be added to the conditions imposed upon it that the approval by the landlord of the intending purchaser should be required, the Collector being empowered to over-rule his objections if they appeared to be manifestly due to spite or any unworthy motive. But the power to mortgage should be rigorously excluded.

If to these measures were added the extension to Oudh of the provisions contained in Chapter III. of the "Dakhan Agriculturists Relief Act," enabling the court to go into the history and merits of all suits for debt brought against cultivators, and to decree only the principal sum actually received, together with such interest as it deems reasonable; and also the exemption from sale in execution of civil decrees of houses, plough-cattle, agricultural implements, and such grain, clothes, and household utensils as the court deems indispensable for the support of the cultivator and his family, and the payment of his rent; we should then, perhaps, have done for the peasantry of the province all that legislation can reasonably be expected to do. If, in spite of all this, they still failed to rise int he social scale, if they still remained involved in debt and destitution, the fault would be theirs, not ours. It is true that—

"The ample proposition that hope makes
In all designs begun on earth below
Fails in the promised largeness."

But there is, at least, strong reason for hoping that these designs, if fairly tried, would not fail; and while this is so, the mere possibility of failure is no excuse for a refusal to make the attempt to execute them. When that attempt has been honestly made, our hands will at any rate be washed clean of the heavy responsibility which attaches to us until we have done what we can to redeem the cultivators of Oudh from the slough of poverty and degradation in which they are now involved. The present

CC-0. Agamnigam Digital Preservation Foundation, Chandigarh

Lieutenant-Governor and Chief Commissioner, in his "Oudh Revenue Administration Report for 1875", declared that he regarded "the position of the Indian cultivator as the saddest and most difficult problem we have to solve; for all that he has to trust to against rapacity is the value of his services"; and wished that he "could devise a remedy for this state of things." The problem is indeed of the saddest and most difficult. Is it always to remain, I will not presume to say, unsolved, but even unattempted ?

4. *Labourers.*

The lot of the landless agricultural labourers is one of the least enviable that can well be conceived. Those who, in addition to working for hire, cultivate small patches of land on their own account are so far better off that they can, if out of other work, employ themselves on their own fields. These, however, are probably a minority, and the greater number are dependent for the means of subsistence on the wages of their labour and on them alone.

The result of our rule, which has most markedly affected the conditions of this unfortunate class, of whose whole expenditure four-fifths, perhaps, is on food, has been a marked and general rise in the price of grain. The Indian labourer, indeed, resembles Robin Ostler of the inn at Rochester, who, "poor fellow, never joyed since the price of oats rose; it was the death of him." During the Nawabi hardly any grain at all seems to have been exported from Oudh in ordinary years; and exportation, as already remarked, was legally prohibited whenever the price of wheat rose above twenty *sirs* to the rupee. The great fertility of the soil enabled it, in days when railroads were not, and roads could scarcely be said to be, to support its dense population with comparative ease. But of recent years, greater security of traffic and improved communications, combined, probably, with a fall in the value of money, have greatly raised prices in Oudh itself. Where the agricultural labourer receives his wages in grain, this rise in prices does not much affect him, except in so far as, on the one hand, it disinclines his employer to give him so much of it, and, on the other, increases the purchasing power of the very minute surplus, if any, which remains after himself and his family are fed. Generally speaking, where paid in kind, he still gets his *kachchha panseri* (or 4 lbs.) a day. If paid in cash, he gets from one anna to one anna six pie *per diem.* The latter sum would rarely purchase more than 6 lbs. of coarse grain, and in years of scarcity perhaps from 3 to 4 lbs. Thus, the tendency, and to some extent the actual effect, of our rule on the agricultural labourer has been to reduce to a still lower pitch his already lamentably low standard of living, and his condition, therefore, has been made worse rather than better by annexation and its results. For what good can the most enlightened and vigorous administration, with tranquillity never so profound, with never so many railways, roads, bridges, schools, jails, police-stations, dispensaries, and court-houses, do to the ordinary Indian coolie which can be at all commensurate with the ever-present evil of being underfed? Muflis, Chamar, or Lachar Baksh Lonya, were just as happy going along the old cart-track as they are now on the most scientifically constructed metalled road. Once or twice in a year, perhaps, they might have had to pay a pice to the ferryman who took them over the river which they now cross without payment by a bridge. Their children never by any chance go near a school. Dispensaries can do little to keep underfed bodies in a healthy condition. The *thana*, the jail, and the court-house, indeed, they may know something of; but their acquaintance with those institutions profits them but little. Comparative freedom from forced labour and from gross ill-treatment we have, to a great extent, conferred upon them, and this is probably the most real benefit for which they have to thank us. But exemption from occasional bullying and brutality is hardly adequate compensation for the gnawing discomfort of chronic hunger. The rise in the price of grain and fall in the value of money cannot, of course, be imputed to our Government as a fault. These are effects of such causes as improved communications, increased security of property, which has caused money to be circulated instead of hoarded, and import of bullion in payment of exports. But the doleful fact remains that the tendency of our rule has distinctly been in the direction of making the life of the day labourers of Oudh harder and more pinched.

No direct amelioration of their lot can be effected by the influence of the State. It is in the power of Government, by a stroke of the pen, to limit rents, but not to raise wages. The only chance for the labourers seems to be a prior improvement in the condition of the classes who employ them, and an increased out-turn from the soil. If zamindars and cultivators become more well-to-do, they will have the means of paying their labourers better, and for inducement to do so, we must trust mainly to a diminution in the supply of agricultural labour arising from an increase in the demand for labour of other kinds, as, *e.g.* for railways and public works. If the great army of village drudges could thus be thinned, the services of those who remained would, it might be hoped, become more valuable and better paid. This seems a somewhat distant hope to trust to, but it is to be feared that there is no other. Any idea of instructing Indian agricultural labourers in the gospel according to Malthus, and thus persuading them to restrain their rate of multiplication, is, of course, utterly visionary. Their children do not. and cannot, go to school, and we have no way whatever of getting at such intelligence as they possess. They can only be influenced from above. So much the more urgent is the necessity of doing what we can to raise the condition of the cultivators, any considerable elevation of which can scarcely fail to effect a corresponding improvement—and an improvement to be brought about in no other way—in the condition of the class below them.

Here must end this attempt to review the conditions of the four classes into which the rural population has been divided, and to suggest specifics for its improvement. But to some it may seem that the main obstacle to all schemes for amelioration has, thus far, been, if not wholly shirked, at least not looked fairly in the face. No Government, it may be said, can do anything for a country of which the day labourers, with a precarious income of from fifteen to eighteen pence a week if paid in cash, and four pounds of coarse grain a day if paid in kind, habitually marry at sixteen, and have, perhaps, half-a-dozen starveling urchins by the time they are five-and-twenty. A people whose habits are thus hopelessly anti-Malthusian, and among whom improvements in production are almost unknown, can only be kept alive, paradoxical as it may sound, by famine, slaughter, or disease. Where moral or prudential checks on multiplication have no existence, the balance between the number of mouths to be filled and the quantity of food available to fill them can only be maintained by such physical checks as epidemics and starvation. While inability to procure a minimum of the coarsest possible food continues to be the only limit to the increase of population, it will continue to be worse than useless to move the limit a little further back, for the only possible result of so doing will be to increase the number of beings whose existence can hardly fail to be a curse to themselves and others. Any addition to the numerator of that miserable vulgar fraction of life which they possess must inevitably lead to a corresponding increase of its denominator, and the fraction itself will be no larger than before. Unless their habits can be so altered as to accustom them to a higher standard of living, rather than forego which they will refrain from multiplying, we had better sit still and do nothing. If, for instance, the poorer classes could be accustomed to two meals a day of wheaten flour, instead of to one meal of coarse grain, for a sufficiently long period to make them regard these things as more indispensable than having a large number of children, they would be really benefited. But merely to enable a larger number of persons to subsist on one meal of pulse a day would be doing harm rather than good.

Thus might argue a rigid disciple of Malthus, and it must be conceded that it would not be altogether easy to answer him. Perhaps, indeed, all that could be replied is, that as, at present, all Hindus and most Musalmans marry, and marry young, and apparently do not regulate the numbers of their children with any particular regard to their means of supporting them, an improvement of their condition would only, for a good many years at any rate, tend to increase population by diminishing the number of deaths, not by increasing the number of births. And it might be hoped that the effect of any considerable improvement in their condition would not be confined to a mere diminution of the number of deaths, but would also permanently improve the condition of those who remained alive. It may, however, be admitted that without a change of habits, no permanent amelioration need be looked for.

Now, is it possible thus to alter the habits of the people, and, if so, by what means ? The answer is that the thing has been done before, and may be done again, by the adoption of measures similar to those which have elsewhere proved successful. If we turn to Mr. Mill, who, while insisting more emphatically than, perhaps, any other modern economist upon the impossibility of permanently benefiting the poorer classes except by restraining their tendency to increase, has also asserted with greater intensity of conviction the possibility of modifying that tendency, we shall find, in that portion of the second book of his great work which deals with the remedies for low wages, the following passage:—

"A sudden and very great improvement in the condition of the poor has always, through its effects on their habits of life, a chance of becoming permanent. What happened at the time of the French Revolution is an example. . . . The majority of the population being suddenly raised from misery to independence and comparative comfort, the immediate effect was that population, notwithstanding the destructive wars of the period, started forward with unexampled rapidity. . . . The succeeding generation, however, grew up with habits considerably altered. . . . For the purpose of altering the habits of the labouring people, there is needed a twofold action, directed simultaneously upon their intelligence and their poverty. An effective national education of the children of the labouring class is the first thing needful; and, coincidently with this, a system of measures which shall, as the Revolution did in France, extinguish extreme poverty for one whole generation."

To begin with the question of education:—It cannot be denied that the Government of India has at its disposal means for influencing the minds of the poorer, if not of the very poorest classes, which have hitherto been very imperfectly utilised. There are schools all over the country, attended by large numbers of children drawn from the ranks of all the agricultural classes except the lowest, and it is for the Government to decide on the nature of the works to be studied there. Hitherto the books in use have consisted mainly of childish fables, absurd mythological stories, and the barest skeleton outlines of history, and geography. Would it not be well that these schoolboys, while learning to read, should at the same time learn something which might conceivably be of some practical use to them in after life? The notion of teaching political economy in village schools may seem eutopian, but it would be perfectly possible to state, in half-a-dozen pages of moderate size, the principles of population and subsistence in a form so concrete and simple as to be readily intelligible to any child capable of understanding the first four rules of arithmetic. Any child can comprehend that a field of which the produce is sufficient to support five people will not equally well support ten, even though double the amount of labour be bestowed upon it; or that five rupees divided as wages among twenty workmen will give them four annas each, while if it is divided among forty, they will get but two annas apiece. That is practically the whole theory of population and subsistence, and it is at least as likely to impress a boy's mind as the information that Stambul is the capital of Rum, and, once apprehended, indefinitely better adapted to do him actual service in life than the most intimate familiarity with the exploits of Shri Krishn or Hanuman. Similarly, the great increase caused by irrigation in the fertility of the soil might be inculcated. Such sentences as, "Irrigated lands yield twice as much as unirrigated," or, "One *pakka* well will water twenty bighas of land," might alternate in copy-books with, "Men increase faster than food can be grown to feed them," "The more mouths to feed, the less there is for each," and similar gems from Malthus. If the matter were seriously taken up, much more might be done to popularise sound notions on economical questions than would at first sight be supposed. The fundamental doctrines of political economy, all those which it especially concerns a labouring class to know, are as simple and obvious and concrete as they can possibly be; and if they were once absorbed into the minds of, say, five per cent. of the boys who attend our schools, they might be trusted gradually to filter through the various strata of native society. The agency of the vernacular press might also be utilised. When these obvious means for the economical education of the people have been tried, it will be time enough to find out others. Whether the results thus produced would be great or small, can only be tested by making the experiment; but if it be true that the economical welfare of the people depends so largely on understanding and obeying the law of population, it is surely a duty to put them, as far as possible, in the way of gaining sound notions on the subject. We cannot, at a stroke, elevate the masses into models of prudence and virtue, but we can introduce an agricultural and economical catechism into our schools, and can require vernacular newspapers to publish Government resolution and advice. We cannot make the horse drink, but we can at least increase the chances of his doing so by leading him to the water.

In order to "extinguish extreme poverty for one whole generation," Mr. Mill proposed two measures—colonisation on a large scale. and "the devotion of all common land hereafter brought into cultivation to raising a class of small proprietors." Neither of these proposals is directly applicable to the circumstances of Oudh. Emigration could hardly be made sufficiently extensive to have any appreciable effect on the condition of those who remained behind. It is something, no doubt, to have such outlets of escape as Trinidad and Demerara open to those who can no longer carry on the struggle for existence at home. It is, in most cases, a great advantage to those who go, but these will always be too few sensibly to relieve those who stay. If emigration from Oudh were ever attempted on a large scale, the best field for locating the emigrants would probably be the more thinly peopled tracts of the Central Provinces.

Of Mr. Mills second specific, the creation of a class of small proprietors, enough has perhaps been said already. A peasant proprietor may be defined as a peasant who either owns the land he cultivates, or holds it at a rent fixed either by law or custom and not abandoned to competition. From this definition it, of course, follows that so far as the rents of Oudh cultivators were fixed by custom, they were peasant proprietors. But they have now ceased, or are almost everywhere ceasing, to be anything of the kind. Custom, as the determining agency of rent, is, more or less rapidly, but with unmistakeable certainty, giving place to competition; and, as a consequence the great mass of ordinary cultivators are sinking into the condition of cottiers, and into all the miseries which a cottier tenure involves. What is wanted to arrest this lamentable process is a measure which shall fix their rents for at least a considerable period, the term of settlement being probably, for the present, the most appropriate. By the time that period has expired, it may be hoped that we shall have arrived at some definite conclusions as to the merits of a permanent settlement of the land revenue. If one might venture to prophesy, it would perhaps be a fairly safe prediction that it will be ultimately recognised that, while a permanent settlement which merely fixes the demand upon the landlord, leaving all, or even any considerable number of the subordinate holders at his mercy, is one of the worst schemes that could be devised, a settlement which should be *permanent all the way down*, protecting the actual cultivator as effectively as the landlord, would be the very best. If a settlement in perpetuity were deemed inexpedient, a fixation of the demands both of the State and of landlords for, say, ninety-nine years, would be almost equally beneficial. Such an extension would, probably, go far to remove the objections which would naturally be felt by landlords to the bestowal of occupancy rights upon their tenants.

Whatever the measures adopted, whether to raise the intelligence of the people, or to improve their external condition, the real and, for the present, ultimate end of such measures, viz. the elevation of the standard of comfort and the extinction of extreme poverty among the poorer classes, should never be lost sight of. All means for the attainment of this end should be adopted simultaneously, not successively. Otherwise, their effect will be frittered away, and more than counterbalanced by the stimulus they will give to population.

One word in explanation of the phrase used above—"for the present, ultimate end"—may not be superfluous, lest it should be suspected to denote forgetfulness of any higher aim than mere "barley feeding and material ease." However firmly one may believe in the uses of adversity, one must admit that there are degrees of suffering which not only render any moral or material growth impossible, but corrupt and degrade the sufferer. Of these, semi-starvation is one. "What human virtue can be expected of the man who is holding a wolf by the ears?" All sorrow is potential force; but it can only become actual force by being assimilated with the constitution of the mind, and transmuted into intensity of soul; as heavy rain renders worthless the soil on which it lies in flood, and only strengthens and fertilises it when absorbed. Suffering which cannot be thus absorbed is worse than useless as an educational agency, and if it be not pure evil, there can be no such thing as pure evil in the universe. This, again to quote *Sordello*, is that—

> *" . . . . dismal brake of prickly pear*
> *Which bristling holds Cydippe by the hair,*
> *Lames barefoot Agathon : this felled, we'll try*
> *The picturesque achievements by and by."*

Perhaps one of the sins which most easily beset a bureaucracy of foreigners is an exaggerated faith in what may be called machinery. The assumption that any number of canals, roads, railways, and mechanical appliances can, of themselves, save India from famine, indicates a radically unsound conception of social and economical welfare and of the conditions of its attainment. All attempts to regenerate an impoverished country by mechanical means alone must of necessity be defeated by the growth of population to which their employment will, *coeteris* *paribus*, give rise. The most effective forces of the world are the chemical, or moral forces, and it is only when, and in so far as, operation of these is secured, that genuine progress begins. The true mode of securing such co-operation in India, and more particularly, perhaps, in Oudh, is the protection of individual industry. The original source of all industry was the connection, more or less certain, between labour, and the retention and enjoyment of its produce by the labourer. And, as Mr. Herbert Spencer has put it, "that function by which a thing begins to exist we may well consider its all essential function . . . . . If it was by maintaining the rights of its members that society began to be, then to maintain those rights must ever be regarded as its primary duty." Mr. Spencer would, perhaps, add that this is the sole duty binding on society; and if this is not true of India, the fact is mainly owing to the wide disparity of civilisation which there exists between the rulers and the ruled. It is undeniable, however, that to afford protection is our first duty, and that to the agricultural industry of Oudh it is, and under the existing land system must be, very imperfectly extended.

Agriculture is, of course, very much the most important business of India, and will probably always continue so to be. But there still survives, though, thanks to the competition of English machinery and capital, in a sadly blighted and frost-bitten condition, a germ of manufacturing industry, which may some day develop into something more significant than its present appearance would seem to indicate. And towards this also we have a duty to fulfil. Manufacturing industry is, indeed, sufficiently secured from external violence, but it is in grievous need of development and instruction, without which it can never attain such superiority to, or, at least, such equality with, foreign products as will enable it to relieve the heavily burthened soil to any appreciable extent. And the most obvious methods of imparting such instruction would seem to be industrial schools and State manufactures. There must be articles for the production of which Oudh possesses special facilities. Paper, glass, leather, and gold and silver work probably among the number. Really great results might be obtained if the principle of the division of labour could once be fairly introduced among native artisans. At present it can scarcely be said to exist, in the European sense of the term. As has been well remarked by Dr. Hunter, division of labour, in the language of political economy, is a division of processes with a view to the ultimate combination of the results of each process; while, as predicable of Indian arts or industries, it amounts merely to a division of final results, attained by a combination of the intermediate processes, each workman performing all the operations requisite to the production of a single result. This, as regards Indian manufactures, may be somewhat over-stated, but it does point to a cardinal defect which might well be remedied by the teaching of industrial schools. Such a change would, in fact, amount to the elevation of native industry from the first stage of division of labour, in which one man makes boots, another hats, and a third coats, to the second and more effective stage in which each of the several processes necessary for the production of boot, hat, or coat, is the work of a separate individual.

To resume :—The first and most crying need of Indian industry is protection, security; and the second is instruction, enlightenment. Agriculture is mainly in need of the former, arts and manufactures of the latter. The two branches of labour, rural and urban, are mutually interdependent, and one can scarcely flourish without the other. For the present, at least, the need of security for the cultivator is the most urgent of the wants of Oudh, and the rulers of the province might well adopt as their motto some such paraphrase of the Comtist watchword as this :—

Reorganiser, sans oppression ni feodalite, par la culte systematique de l'industrie individuelle.

It has been tacitly assumed throughout this chapter that reason will ere long reassert her reign in the counsels of the State, that the blood and treasure of the Empire will no more be poured out upon the barren hills of Afghanistan, and that our energy and resources will be concentrated on their rightful object, the improvement of the condition of the people of India. But if the "wild and dream-like trade of blood and guile" which has led our armies to Kabul, and seems but too likely to lead them to the Hindu Kush, be persisted in much longer, the catastrophe in which such a course must surely end cannot be long delayed. When "old mismanagements, taxations new" have produced their inevitable harvest of misery and disaffection, we shall find, too late, that, by wasting our strength in fighting a chimera, and attempting to subjugate a race of savage mountaineers, whose single virtue is their passionate love of freedom and independence, for fear that they should voluntarily submit themselves to Russian supremacy, we have thrown away the noblest opportunity a nation ever possessed of regenerating and elevating some two hundred millions of people.

"The gods be good unto us!" cried Sicinius, when misfortune, born of folly, was hard at hand. "No," replied Menenius, "in such a case the gods will not be good unto us."

State Museum Library * Lucknow *

4464

Rare-India Reprints

Books worth their weight in gold !

Titles published :

1. Private Memoirs of HUMAYUN
2. Dacoitee in Excelsis by Samuel Lucas
3. Of the Govt. & People of Indostan by Robert Orme
4 Tafzihul Ghafilin : A History of Asafu'ddaulah
5. History of the Reign of Shah-Aulum by W. Francklin
6. European Travellers in India during 15th, 16th & 17th centuries—by OATEN
7. The Garden of India by Irwin Vol I
8. The Garden of India Vol II

Forthcoming Titles

1. Journey through the kingdom of Oudh by SLEEMAN Vol I & Vol II
2. The Untold Stories of the Indian Mutiny
3. Indian Nights' Entertainment by Swynnerton
4. Frivolous Peeps at India—by KELLY
5. Real Life in India (1847)
6. Recollections of a Lucknow Veteran
7. Among Indian Rajas and Ryots by FRASER
8. Behind the Bungalow by E. H. Aitklu
9. An account of the Gypsies of India

For complete details kindly write to Editor, Rare-India Series

PUSTAK KENDRA, 72, Hazratganj, Lucknow (India)